

C-8353

SUPREME COURT OF TEXAS CASES

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EDGEWOOD INDEPENDENT SCHOOL DISTRICT, ET AL. U. KIRBY,

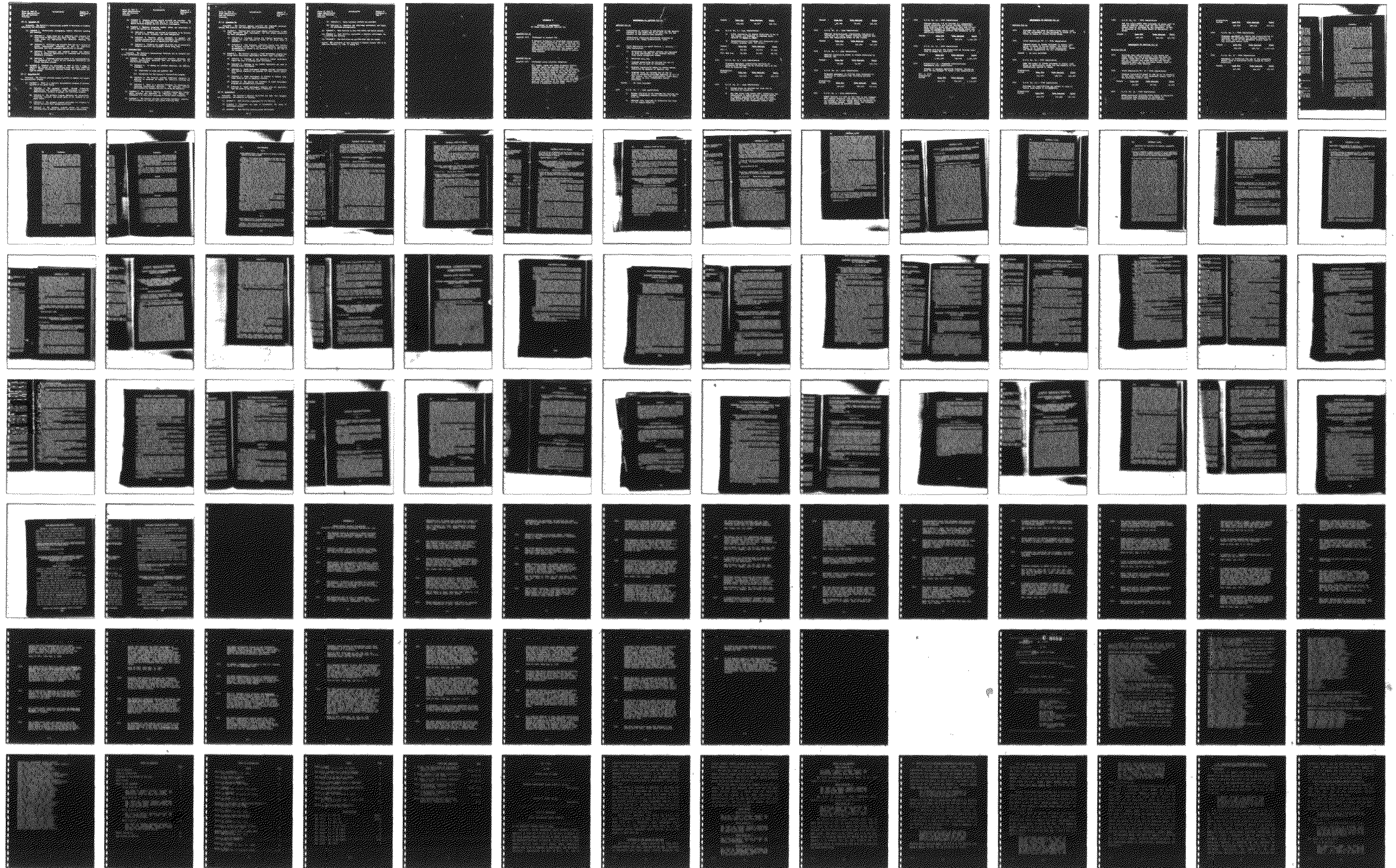
1988-89

WILLIAM, ET AL. (3RD DISTRICT)

C-8353 SUPREME COURT OF TEXAS CASES  
EDGEWOOD INDEPENDENT SCHOOL DISTRICT, ET AL. V.  
WILLIAM, ET AL. (3RD DISTRICT)

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§97.26 Principle VI.

Principle. The district's instructional program is delivered to students effectively and efficiently.

- (1) Standard 1. Instructional arrangements support effective teaching and learning.
  - (A) Indicator A. Class sizes are in compliance with statutes and State Board of Education rules where they apply. In all cases, class sizes are appropriate for effective teaching and learning.
  - (B) Indicator B. Principals and teachers know and use a variety of proven instructional techniques as well as innovative approaches that have reasonable expectations of success.
  - (C) Indicator C. Principals and teachers possess and exhibit skills in effective applications of classroom and discipline management strategies.
  - (D) Indicator D. Classroom practices known to be counterproductive are eliminated as a result of the classroom observation and teacher appraisal process.
- (2) Standard 2. Students are encouraged to take as wide a range of subjects and courses as the curriculum rules and local conditions permit. Proven alternative delivery systems for instruction are used as needed.

§97.27 Principle VII.

Principle. The district provides student services to augment and support its instructional program.

- (1) Standard 1. There is a realistic developmental program of guidance services at all grade levels.
  - (A) Indicator A. The guidance program, through counseling, consultation, and coordination, gives assistance to teachers, administrators, students in groups, and individual students.
  - (B) Indicator B. The guidance program addresses the educational, vocational, personal, and social needs of all students at all grade levels.
  - (C) Indicator C. The guidance program encourages all students to realize and reach their maximum potentials.
  - (D) Indicator D. The guidance program serves all students, including those in special education and special populations.

- (2) Standard 2. Adequate student health services are provided. The district is in compliance with §85.41 of this title (relating to Health Services Program) and all statutory requirements.
- (3) Standard 3. Measures promoting student safety are prescribed in policy and carried out in practice.
  - (A) Indicator A. Students are drilled in procedures to be followed in case of fires, tornadoes, and other emergencies.
  - (B) Indicator B. Required safety equipment is present, and standard precautions are observed throughout the district, with special attention given to laboratories and shops.
  - (C) Indicator C. Students are taught the proper use of potentially dangerous materials and equipment before using them.

§97.28 Principle VIII.

Principle. The district's instructional resources are an integral part of the instructional program.

- (1) Standard 1. The district systematically acquires, maintains, and replaces instructional materials that are appropriate for its instructional program.
  - (A) Indicator A. In making its textbook adoptions, the district considers:
    - (i) consistency in scope and sequence; and
    - (ii) suitability for the district's instructional program.
  - (B) Indicator B. The district provides sufficient resources in addition to textbooks as needed for effective teaching and learning.
  - (C) Indicator C. There is a specific procedure for obtaining and replacing instructional materials. The procedure involves participation by teachers who will be using the materials.
- (2) Standard 2. The district operates a planned program for library media services and materials in compliance with Chapter 81, Subchapter F of this title (relating to Library Media Standards).
- (3) Standard 3. The district provides specialized equipment, supplies, and environments for subjects and courses requiring them.

§97.29 Principle IX.

**Principle.** The district employs qualified and competent personnel, assigns them properly, and encourages their professional growth.

- (1) Standard 1. Teachers have valid Texas teacher certificates, or meet other appropriate legal requirements, and have proper preparation for their assignments.
  - (A) Indicator A. Personnel records are properly maintained, and contain all items required by rules of the State Board of Education.
  - (B) Indicator B. When necessary conditions require that teachers be assigned outside their fields of preparation, appropriate documentation is placed in the personnel files at the time of the assignments.
- (2) Standard 2. The district operates a staff development program that brings about educational improvement and meets legal requirements.
  - (A) Indicator A. Findings of the district's annual performance report are used in planning staff development.
  - (B) Indicator B. Findings of the teacher appraisals are used in planning staff development.
  - (C) Indicator C. Staff development planning includes coordination with special education and programs for other special populations.
  - (D) Indicator D. Staff development is planned to address long-range needs as well as immediate concerns.
  - (E) Indicator E. The quality and relevancy of staff development programs are systematically evaluated.
  - (F) Indicator F. Staff development complies with all applicable laws and rules of the State Board of Education.

§97.30 Principle X.

**Principle.** The district's physical facilities are safe, well designed for instruction, and conducive to learning.

- (1) Standard 1. Each facility is designed for its function.
- (2) Standard 2. Provisions are made to accommodate the needs of handicapped persons.
- (3) Standard 3. Each facility receives proper maintenance.

- (A) Indicator A. Daily custodial services are provided.
- (B) Indicator B. Immediate and long-range maintenance and repair are performed systematically.
- (4) Standard 4. Each facility is free from safety and health hazards.
- (5) Standard 5. Each facility constitutes a positive environment for teaching and learning.
- (6) Standard 6. New facilities are provided when they are needed.

Source: The provisions of this Subchapter B adopted January 1986 to be effective February 12, 1986, 11 TexReg 546.



## APPENDIX C

### HISTORY OF AMENDMENTS TO TEXAS CONSTITUTION ARTICLE VII

#### ARTICLE VII §1

Adopted 1876      Unchanged to present day

A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

#### ARTICLE VII §2

Adopted 1876      Unchanged since original adoption.

All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may be hereafter be made railroads, or other corporations, of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual school fund.



AMENDMENTS TO ARTICLE VII §3

ARTICLE VII §3

1876      Limitation of revenue to one-fourth of the general revenue of the state and \$1.00 poll tax for the benefit of the public-free schools.

(Previously financing provisions governed by Article X §2, Texas Constitution, 1845)

1883      Joint Resolution to amend Section 3, Article 7 - 18th Legislature

- 1)      Eliminated the general revenue and replaced it with one-fourth of the revenue derived from state occupation taxes.
- 2)      Retained poll tax.
- 3)      Created state-wide ad valorem tax not to exceed 20¢ on \$100.00 valuation.
- 4)      Created legislative power to create school districts by general or special law.
- 5)      Created local ad valorem tax of 20¢ on \$100.00 valuation provided approval by 2/3 of the voters, but the constitution limit shall not apply to city independent school districts.

Passed   -   No vote recorded.

1908      H.J.R. No. 7 - 30th Legislature

- 1)      Raises 20¢/\$100.00 ad valorem tax ceiling for common independent school districts to 50¢/\$100.00.
- 2)      Reduces vote required to authorize tax from 2/3 to simple majority.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	130,402	52,077	300,764

1909 H.J.R. No. 5 - 31st Legislature

- 1) Lifts limitation on school districts to be in one county (in response to Supreme Court opinion in Parks v. West).
- 2) Constitutionally validates all districts previously created (Art. VII §3(a)).

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
VII: 3	48,000	19,076	67,082
VII: add 3(a)	52,365	16,430	68,795

1915 H.J.R. No. 30 - 34th Legislature

Proposed amendment authorizing 50¢/\$100.00 valuation ad valorem tax by counties and a \$1.00/\$100.00 district tax.

Proposition Failed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	122,040	129,139	251,179

1918 H.J.R. No. 27 - 35th Legislature

- 1) Raised state ad valorem tax from 20¢ to 35¢/\$100.00 valuation.
- 2) For the first time since 1883, authorizes the Legislature to spend general revenue monies to augment expenditures and for the first time allowed money to go directly to school districts, not the Permanent School Fund.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	86,788	38,616	125,304

1920 S.J.R. No. 17 - 36th Legislature

Removed constitutional limitations (50¢/\$100.00 valuation) on local school district taxation and gave the legislature power to set limits.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	221,223	126,282	347,405

1926 H.J.R. No. 9 - 39th Legislature

Removed legislative power to create districts by special law.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	79,289	51,487	130,776

1935 S.J.R. No. 24 - 44th Legislature

Proposed amendment to provide free textbooks to children of scholastic age including private schools.

Proposition Failed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	257,815	280,019	537,834

1961 S.J.R. No. 6 - 57th Legislature

Added Section 3-b that no tax vote in any independent school district, the major portion of which is located in Dallas County shall be abrogated by any boundary change. Bonds voted, but unissued not invalidated by boundary change.

1966 H.J.R. No. 65 - 59th Legislature

Charged Section 3-b to include all independent school districts and junior college districts. Each district given the power to levy and collect taxes and payment of bond indebtedness after any change in boundaries without the necessity of an additional election.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	668,714	355,875	1,024,589

1968 S.J.R. No. 32 - 60th Legislature

Deleted provision for state-wide ad valorem taxation in steps for 1968-1974.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	1,251,528	700,078	1,951,606

1976 Proposition #4 - Proposed Constitutional Amendments 64th Legislature

Attempt to mandate equalized funding; failed as part of the attempt to adopt a new constitution.

Nov. 4, 1976  
Proposition  
Failed

<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
327,876	844,927	1,172,803

AMENDMENTS TO ARTICLE VII §4

Article VII §4

1876 Provides for the sale of public-free school land and the investment of the proceeds in bonds of the State of Texas or United States Bonds.

1883 Joint Resolution No. 2 - 18th Legislature

Expands power to invest proceeds of school land sales in bonds of United States, the State of Texas, or in counties or other securities. Makes the State responsible for all investments.

Passed - No vote recorded.

1895 H.J.R. No. 18 - 24th Legislature

Adds the power to invest proceeds of school land sales in agricultural lands for the benefit of the penitentiary system of Texas.

Proposition Failed	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	101,121	188,574	289,695

1981 H.J.R. No. 117 - 67th Legislature

Provides for applications for patent to land to School Land Board to cure defects.

Proposition Failed	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	293,478	473,886	767,364

1985 S.J.R. No. 21, - 69th Legislature

Add the requirement that proceeds of sales must be used to acquire other land for the Public Free School Fund or invested by the Treasurer, as may be directed by the State Board of Education, in bonds.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	628,246	299,020	927,266

AMENDMENTS TO ARTICLE VII §5

Article VII §5

1876 Provides that the principal of all bonds and other funds and the principal from the sale of school lands shall be the permanent school fund and all interest and taxes derived and levied therefrom shall be the available school fund to support public free schools.

1891 Joint Resolution No. 19 - 22nd Legislature

Created legislative power to add up to 1% annually of the total value of the permanent school fund to the available school fund.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	40,526	35,702	76,228

1935 S.J.R. No. 24 - 44th Legislature

Added provision allowing State Board of Education to provide free textbooks to children of scholastic age including private schools.

Proposition Failed	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	257,815	280,019	537,834

1963      S.J.R. No. 6 - 58th Legislature

Proposed amendment to remove the authorization to transfer not exceeding one percent annually of the total value of the permanent school fund to the available school fund.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	941,435	495,710	1,437,145

1983      S.J.R. No. 12 - 68th Legislature

Amendment to authorize the use of the permanent school fund to guarantee bonds issued by school districts.

Passed -	<u>Vote For</u>	<u>Vote Against</u>	<u>Total</u>
	457,590	269,037	726,627

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States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, shall be deemed a qualified elector; and every male person of foreign birth, subject to none of the foregoing disqualifications, who, at any time before an election, shall have declared his intention to become a citizen of the United States in accordance with the federal naturalization laws, and shall have resided in this State one year next preceding such election, and the last six months in the county in which he offers to vote, shall also be deemed a qualified elector; and all electors shall vote in the election precinct of their residence; provided, that electors living in any unorganized county, may vote at any election precinct in the county to which such county is attached for judicial purposes.

Sec. 3. All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town, shall have the right to vote for mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town; provided, that no poll tax for the payment of debts thus incurred shall be levied upon the persons debarred from voting in relation thereto.

Sec. 4. In all elections by the people the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; but no law shall ever be enacted requiring a registration of the voters of this State.

Sec. 5. Voters shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

#### ARTICLE VII.—Education—The Public Free Schools.

Section 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

Sec. 2. All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to



railroads, or other corporations, of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual school fund.

Sec. 3. There shall be set apart annually not more than one-fourth of the general revenue of the State, and a poll tax of one dollar on all male inhabitants in this State between the ages of twenty-one and sixty years, for the benefit of the public free schools.

Sec. 4. The land herein set apart to the public free school fund shall be sold under such regulations, at such times and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to the purchasers thereof. The comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the Board of Education herein provided for, in the bonds of this State, if the same can be obtained, otherwise in United States bonds; and the United States bonds now belonging to said fund shall likewise be invested in State bonds, if the same can be obtained on terms advantageous to the school fund.

Sec. 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart for said school fund, shall be the permanent school fund; and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, which shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in manner as may be provided by law.

Sec. 6. All lands heretofore or hereafter granted to the several counties of this State for education or schools, are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the Commissioners' Court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said

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lands and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the State of Texas, or of the United States, and only the interest thereon to be used and expended annually.

Sec. 7. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both.

Sec. 8. The governor, comptroller and secretary of state shall constitute a Board of Education, who shall distribute said funds to the several counties and perform such other duties concerning public schools as may be prescribed by law.

#### Asylums.

Sec. 9. All lands heretofore granted for the benefit of the Lunatic, Blind, Deaf and Dumb, and Orphan Asylums, together with such donations as may have been or may hereafter be made to either of them, respectively, as indicated in the several grants, are hereby set apart to provide a permanent fund for the support, maintenance and improvement of said asylums. And the Legislature may provide for the sale of the lands and investment of the proceeds in manner as provided for the sale and investment of school lands in section 4 of this Article.

#### University.

Sec. 10. The Legislature shall, as soon as practicable, establish, organize and provide for the maintenance, support and direction of a university of the first class, to be located by a vote of the people of this State, and styled "The University of Texas," for the promotion of literature, and the arts and sciences, including an agricultural and mechanical department.

Sec. 11. In order to enable the Legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of "The University of Texas," together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent university fund, and the same as realized and received into the treasury of

## No. 5.

**JOINT RESOLUTION.**—To amend Section 3 of Article 7, of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas: That Section 3, of Article 7, of the Constitution of the State of Texas be so amended as to hereafter read as follows:

"Section 3. One-fourth of the revenue derived from the State occupation taxes, and a poll tax of one dollar on every male inhabitant of this State between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of the public free schools, and, in addition thereto, there shall be levied and collected an annual ad valorem State tax of such an amount, not to exceed twenty cents on the one hundred dollars valuation, as, with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of this State for a period of not less than six months in each year; and the Legislature may also provide for the formation of school districts within all or any of the counties of this State, by general or special law, without the local notice required in other cases of special legislation, and may authorize an additional annual ad valorem tax to be levied and collected within such school districts for the further maintenance of public free schools and the erection of school buildings therein; provided, that two-thirds of the qualified property tax paying voters of the district, voting at an election to be held for that purpose, shall vote such tax, not to exceed in any one year twenty cents on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts.

Sec. 2. That the Governor of this State shall issue his proclamation ordering an election to be held on the second Tuesday in August A. D. 1883, at which time the foregoing amendment shall be submitted for adoption by the qualified electors of this State.

Sec. 3. That those voting for the adoption of the amendment to Section 3, shall have written or printed on their ballots the words "For amendment to Section 3, Article 7, of the Constitution, school tax," and those voting against the adoption of said amendment shall have written or printed on their ballots the words "Against the amendment to Section 3, Article 7 of the Constitution, school tax."

Approved April 7, 1883.

## No. 6.

**JOINT RESOLUTION.**—Proposing an amendment to Article 5 of the State Constitution diminishing the number of terms of county courts.

Section 1. Be it resolved by the Legislature of the State of Texas: That Article 5 of the Constitution of the State shall be amended by adding thereto another section which shall read as follows:

[NOTE.—The enrolled bill shows that the foregoing act passed the Senate by the following vote, yeas 26, nays 0; passed the House of Representatives with amendments by the following vote, yeas 94, nays 0; referred to conference committee; report of conference committee adopted by the Senate by the following vote, yeas 25, nays 0; and by the House by the following vote, yeas 92, nays 1.]

# STATE CONSTITUTION ESTABLISHMENT OF A WIDOWS.

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## TAXATION—SUBMITTING AMENDMENT TO CONSTI- TUTION.

### H. J. R. No. 7.] HOUSE JOINT RESOLUTION.

Amending Section 3, Article 7 of the Constitution of the State of Texas, increas-  
ing the amount of tax that may be voted on school districts and providing for  
a majority vote of the property tax paying voters of such district to vote such  
tax.

SECTION 1. *Be it Resolved by the Legislature of the State of Texas:*  
That Section 3 of Article 7 of the Constitution of the State of Texas  
be so amended as to hereafter read as follows:

Sec. 3. One-fourth of the revenue derived from the State occu-  
pation taxes and a poll tax of \$1 on every male inhabitant of this State  
between the ages of twenty-one and sixty years shall be set apart an-  
nually for the benefit of the public free schools, and in addition thereto  
there shall be levied and collected an annual ad valorem State tax of  
such an amount, not to exceed twenty cents on the \$100 valuation, as  
with the available school fund arising from all other sources, will be  
sufficient to maintain and support the public free schools of this State  
for a period of not less than six months in each year, and the Legislature  
may also provide for the formation of school districts within all or any  
of the counties of this State by general or special law, without the local  
notice required in other cases of special legislation, and may authorize  
an additional ad valorem tax to be levied and collected within such  
school districts for the further maintenance of public free schools, and  
the erection and equipment of school buildings therein, provided that  
a majority of the qualified property tax paying voters of the district,  
voting at an election to be held for that purpose shall vote such tax,  
not to exceed in any one year 50 cents on the \$100 valuation of the  
property subject to taxation in such district, but the limitation upon  
the amount of district tax herein authorized shall not apply to incor-  
porated cities or towns constituting separate and independent school  
districts.

SEC. 2. The Governor of the State of Texas shall and he is hereby  
directed to issue the necessary proclamation for the submission of this  
amendment to the qualified voters of the State of Texas at the next  
general election, or at a special election called by the Governor and  
the sum of four thousand (\$4000) dollars, or so much thereof as may  
be necessary, is hereby appropriated out of any money not otherwise  
appropriated to defray the expenses of publication of such proclama-  
tion. At such election the qualified electors voting and favoring said  
amendment shall have written or printed on the ballot as follows: "For

amendment to Section 3, Article 7, of the Constitution of the State, relating to public free schools," and those opposed to said amendment shall have written or printed on the ballot as follows: "Against amendment to Section 3, Article 7, of the Constitution of the State, relating to public free schools."

[NOTE.—The enrolled bill shows that the foregoing act passed the House of Representatives by the following vote, yeas 99, nays 0; was referred to the Senate, amended and passed by the following vote, yeas 23, nays 3; that the House of Representatives concurred in the Senate amendments by the following vote, yeas 94, nays 0.]

Approved March 20, 1907.

PROPOSED AMENDMENT TO THE STATE CONSTITUTION  
CREATING THE OFFICE OF COMMISSIONER  
OF AGRICULTURE.

S. J. R. No. 13.] SENATE JOINT RESOLUTION.

Proposing an amendment to Article four (4) of the Constitution of the State of Texas, by adding thereto a section to be known as Section 27, providing for a Department of Agriculture, with a bureau of labor.

*Be it Resolved by the Legislature of the State of Texas:*

SECTION 1. That Article four (4) of the Constitution of the State of Texas be amended by adding thereto Section 27, when a majority of the qualified electors for members of the Legislature of Texas at an election for that purpose shall vote in favor of the amendment, shall read as follows:

Section 27. The Legislature shall provide for the office of Commissioner of Agriculture, who shall be either elected by the qualified voters of the State, or appointed by the Governor with the advice and consent of two-thirds of the Senate, as the Legislature may provide; whose term of office, duties and salary shall be prescribed by law; in which department there shall be established by the Legislature a bureau of labor, when required by the public interest.

SEC. 2. The Governor of this State is hereby directed to issue and have published the necessary proclamation for the submission of this resolution to the qualified voters for members of the Legislature of the State of Texas, as an amendment to the Constitution of Texas, to be voted upon on the first Tuesday in August, 1907. All persons favoring said amendment shall have written or printed on their ballots, as follows: "For the amendment to the Constitution, providing for a Department of Agriculture and a Bureau of Labor." And those opposed to said amendment shall have written or printed on their ballots, as follows: "Against the amendment to the Constitution, providing for a Department of Agriculture and a Bureau of Labor." And the sum of (\$2000) two thousand dollars or so much thereof as may be necessary is hereby appropriated out of any funds in the Treasury of the State of Texas, not otherwise appropriated, to pay the expenses of such publications, proclamation and election.

TO INVESTIGATE  
UNITED STATES  
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not exceed the sum of \$2,000.00, and that the said claim shall be col-  
lected through the Adjutant General's Department of this State, and  
the Texas delegation in Congress.

Approved March 17, 1909.

**PROPOSED AMENDMENT TO THE STATE CONSTITUTION  
VALIDATING SCHOOL DISTRICTS AND THEIR BONDED  
INDEBTEDNESS AND AUTHORIZING LEVY AND  
COLLECTION OF TAXES TO PAY SUCH  
INDEBTEDNESS.**

H. J. R. No. 5.] HOUSE JOINT RESOLUTION.

To amend Article 7 of the Constitution of the State of Texas by adding thereto  
Section 3a, validating school districts and the bonded indebtedness of such  
districts and authorizing the levy and collection of taxes to pay such indebted-  
ness.

*Be it Resolved by the Legislature of the State of Texas:*

**SECTION 1.** That Article 7 of the Constitution of the State of Texas  
be amended by adding thereto a new Section, to be known as Section 3a,  
which shall read and be as follows:

**Sec. 3a.** Every school district heretofore formed, whether formed  
under the general law or by special Act, and whether the territory em-  
braced within its boundaries lies wholly within a single county or partly  
in two or more counties, is hereby declared to be, and from its forma-  
tion to have been, a valid and lawful district.

All bonds heretofore issued by any such districts which have been ap-  
proved by the Attorney General and registered by the Comptroller are  
hereby declared to be, and at the time of their issuance to have been,  
issued in conformity with the Constitution and laws of this State, and  
any and all such bonds are hereby in all things validated and declared  
to be valid and binding obligations upon the district or districts issuing  
the same.

Each such district is hereby authorized to, and shall, annually levy and  
collect an ad valorem tax sufficient to pay the interest on all such bonds  
and to provide a sinking fund sufficient to redeem the same at maturity,  
not to exceed such a rate as may be provided by law under other provi-  
sions of this Constitution. And all trustees heretofore elected in districts  
made up from more than one county are hereby declared to have been  
duly elected, and shall be and are hereby named as trustees of their re-  
spective districts, with power to levy the taxes herein authorized until  
their successor shall be duly elected and qualified as is or may be pro-  
vided by law.

**SEC. 2.** That the above and foregoing proposed amendment shall be  
duly published once a week for four weeks commencing at least three  
months before a special election to be held for the purpose of voting  
upon such proposed amendment on the first Tuesday in August, 1909,  
in one weekly newspaper of each county in the State of Texas in which  
such a newspaper may be published. And the Governor be, and he is  
hereby directed to issue the necessary proclamation for the submission

of this proposed amendment to the qualified electors for members of the Legislature. At such election all persons favoring such amendment shall have written or printed on their ballots the words, "For the amendment to Article 7 of the Constitution validating school districts and school district bonds," and those opposed thereto shall have written or printed on their ballots the words, "Against the amendment to Article 7 of the Constitution validating school districts and school district bonds."

SEC. 3. That \$5000.00, or as much thereof as may be necessary be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, to defray the expenses of advertising and holding the election provided for above.

[NOTE.—The enrolled bill shows that the foregoing Resolution passed the House by the following vote, yeas 120, nays 0; was referred to the Senate, amended and passed by the following vote, yeas 26, nays 0; and that the House concurred in the Senate amendments by the following vote, yeas 106, nays 0.]

**SUPERINTENDENT OF PUBLIC BUILDINGS AND GROUNDS—  
REQUESTING SUPERINTENDENT TO LOCATE SITE  
FOR ERECTION OF MONUMENT TO VALOR  
OF HOOD'S TEXAS BRIGADE.**

**S. C. R. No. 3.] SENATE CONCURRENT RESOLUTION.**

Whereas, the Hood's Texas Brigade Monument Committee desire to erect a monument upon the Capitol grounds to Hood's Texas Brigade, whose deeds of valor and patriotic sacrifice are inseparable from the history of '61 to '64, and contribute much to the glory of Texas.

Therefore, resolved by the Senate, the House concurring, that the Superintendent of Public Buildings and Grounds be and is hereby authorized and directed to select a suitable place upon the enclosed grounds around the Capitol Building in the City of Austin, upon which may be erected a monument to the valor of Hood's Texas Brigade, that the same may ever stand an inspiration of patriotism to the sons and daughters of Texas, said monument to be erected under the direction of Hood's Texas Brigade Monument Committee.

Resolved, further, that the Superintendent of Public Buildings and Grounds is hereby requested to locate and designate said site agreeable as near as may be to the said Hood's Texas Brigade Monument Committee and to assist and co-operate with said committee in all ways not in conflict with his public duty.

Approved March 17, 1909.

# STATE CONSTITUTION OF A STUDENT

## SECTION.

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At such election all persons  
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the Constitution, adding thereto Section 3b, authorizing the com-  
missioners court to create a 'Students' Loan Fund'," and those op-  
posed thereto shall have written or printed on their ballots the  
words, "Against the Amendment to Section 3 of Article 7 of the  
constitution, adding thereto Section 3b, authorizing the commissioners  
court to create a 'Students' Loan Fund'."

SEC. 5. That \$5,000.00, or as much thereof as may be necessary,  
be, and the same is hereby appropriated out of any money in the  
Treasury not otherwise appropriated, to defray the expenses of ad-  
vertising and holding the election provided for above.

[NOTE.—H. J. R. No. 9 was adopted by the House March 13, yeas  
100, nays 21. Was adopted by the Senate March 19, yeas 21, nays  
6.]

Approved March 30, 1915.

## PROPOSED AMENDMENT TO THE STATE CONSTITUTION RELATING TO LEVYING TAX FOR SCHOOL PURPOSES.

H. J. R. No. 30.] HOUSE JOINT RESOLUTION.

Proposing an amendment to Section 3, Article 7, of the Constitution of the  
State of Texas, authorizing the levy and collection of an ad valorem  
county tax not to exceed fifty cents on the one hundred dollars valuation  
of property for the maintenance of the public schools of the county, and  
authorizing the levy and collection of an ad valorem district tax not to  
exceed one dollar on the one hundred dollars valuation of property for  
the maintenance of the public schools of the district.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Section 3 of Article 7 of the Constitution of the  
State of Texas be amended to hereafter read as follows:

Section 3. School Taxes.—One-fourth of the revenue derived from  
the state occupation taxes, and a poll tax of \$1.00 on every male in-  
habitant of this state between the ages of 21 and 60 years, shall be  
set apart annually for the benefit of the public free schools, and in  
addition thereto there shall be levied and collected an annual advalorem  
state tax of such an amount, not to exceed 20 cents on the \$100.00  
valuation, as with the available school fund arising from all other  
sources will be sufficient to maintain and support the public free  
schools of this state for a period of not less than six months in each  
year. The Legislature may also authorize the levy and collection of  
an annual ad valorem county tax within the counties of this State  
not to exceed 50 cents on the \$100.00 valuation of property situated  
within the county; provided, a majority of the qualified property tax-  
paying voters of the county voting at an election to be held for that  
purpose shall vote such tax, for the purpose of maintaining the public  
free schools of the county, and the Legislature may also provide for  
the formation of school districts by general or special law, without  
the local notice required in other cases of special legislation, and all



such school districts, whether created by general or special law, may embrace parts of two or more counties, and the Legislature shall be authorized to pass laws for the assessment and collection of taxes in all said districts and for the management and control of the public school or schools of such district, whether such districts are composed of territory wholly within a county or in parts of two or more counties. And the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts heretofore formed, or hereafter formed, for the further maintenance of public free schools, and the erection and equipment of school buildings therein; provided, that a majority of the qualified property taxpaying voters of the district, voting at an election to be held for that purpose, shall vote such tax not to exceed in any one year one dollar on the \$100.00 valuation of the property subject to taxation in such districts, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns, constituting separate and independent school districts.

SEC. 2. The Governor of this state is hereby instructed to issue the necessary proclamation for the submission of this amendment to the qualified voters of the State of Texas at the next general election to be held in November, 1916, at which election all voters favoring this amendment shall have written or printed on their ballots the words, "For the amendment to Section 3, Article 7, of the Constitution of the State of Texas, relating to the levy of ad valorem school taxes not to exceed fifty cents on the \$100.00 valuation in the county and not to exceed one dollar on the \$100.00 valuation in the district, for the purpose of maintaining the public schools of the county or of the district." And those opposed to this amendment shall have written or printed on their ballots the words, "Against the amendment to Section 3, Article 7, of the Constitution of the State of Texas, relating to the levy of ad valorem school taxes, not to exceed fifty cents on the \$100.00 valuation in the county, and not to exceed one dollar on the \$100.00 valuation in the district, for the purpose of maintaining the public schools of the county or of the district."

SEC. 3. The sum of \$5,000.00, or as much thereof as may be necessary therefor, is hereby appropriated to pay the expenses of carrying out the provisions of this resolution.

[NOTE.—H. J. R. No. 30 was adopted by the House March 6, yeas 104, nays 12. Was adopted by the Senate, with amendments, March 19, yeas 25, nays 2. House concurred in Senate amendments March 19, yeas 78, nays 19, present and not voting 1.]

Approved April 1, 1915.

## CRIMINAL CASES.

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in criminal prosecutions,  
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as the accused shall have  
He shall have the right  
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have the right to produce  
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ide; and no person shall  
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he punishment is by fine or  
nitentiary, in cases of im-  
or navy, or in the militia,  
public danger.

hereby directed to issue the  
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general election for State

members of the Legislature  
said general election and at  
endment shall have writ-  
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providing for prosecution of  
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ertain circumstances," and  
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ent to Section 10, Article 1

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se of Representatives by a  
ed the Senate with amend-  
s 4; and the House concurred  
e, yeas 123, nays 0.

SPECIAL TAX FOR MAINTENANCE OF PUBLIC SCHOOLS  
AND FURNISHING FREE TEXT BOOKS.

H. J. R. No. 27.]

Proposing an amendment to Art. 7 of the Constitution of the State of  
Texas by changing Sec. 3 providing for a thirty-five cent tax levy for  
the maintenance of the public schools of Texas and providing free text  
books in the public schools of the State of Texas, and making an appro-  
priation therefor.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Section 3, Article 7, of the Constitution be so  
changed as to read as follows: (creating a new Sec. 3)

Sec. 3. One-fourth of the revenue derived from the State occupa-  
tion taxes and a poll tax of one (\$1.00) dollar on every male inhabi-  
tant of this State, between the ages of twenty-one and sixty years,  
shall be set apart annually for the benefit of the public free schools;  
and, in addition thereto, there shall be levied and collected an annual  
ad valorem State tax of such an amount not to exceed thirty-five  
cents on the one hundred (\$100.00) dollar valuation, as, with the  
available school fund arising from all other sources, will be sufficient  
to maintain and support the public schools of this State for a period  
of not less than six months in each year and it shall be the duty of the  
State Board of Education to set aside a sufficient amount out of the  
said tax to provide free text books for the use of children attending  
the public free schools of this State; provided, however, that should  
the limit of taxation herein named be insufficient the deficit may be  
met by appropriation from the general funds of the State and the  
Legislature may also provide for the formation of school districts by  
general or special law without the local notice required in other cases  
of special legislation; and all such school districts, whether created  
by general or special, law may embrace parts of two or more coun-  
ties. And the Legislature shall be authorized to pass laws for the  
assessment and collection of taxes in all said districts, and for the  
management and control of the public school or schools of such dis-  
trict, whether such districts are composed of territory wholly within  
a county or in parts of two or more counties. And the Legislature  
may authorize an additional ad valorem tax to be levied and collected  
within all school districts heretofore formed or hereafter formed, for  
the further maintenance of public free schools, and the erection and  
equipment of school buildings therein: provided, that a majority of  
the qualified property tax-paying voters of the district voting at an  
election to be held for that purpose, shall vote such tax, not to exceed  
in any one year fifty cents on the one hundred dollar valuation of the  
property subject to taxation in such district but the limitation upon  
the amount of school district tax herein authorized shall not apply  
to incorporated cities or towns constituting separate and independent  
school districts.

SEC. 2. The foregoing constitutional amendment shall be submit-  
ted to a vote of the qualified electors of the State at an election to be

held throughout the State on the first Tuesday after the first Monday in November, 1918, at which election all voters favoring said proposed amendment shall write or have printed on their ballots the words, "For the amendment to the Constitution of the State of Texas providing for the levy of a special school tax for the maintenance of the public schools of the State and to provide free text books in the public schools of the State of Texas," and all those opposed shall write or have printed on their ballots the words, "Against the amendment to the Constitution of the State of Texas providing for the levy of a special school tax for the maintenance of the public schools of the State and to provide free text books in the public schools of the State of Texas."

SEC. 3. The Governor of the State is hereby directed to issue the necessary proclamation for said election and to have same published as required by the Constitution and existing laws of the State.

SEC. 4. That the sum of two thousand (\$2,000.00) dollars, or so much thereof as may be necessary, is hereby appropriated out of any funds in the Treasury of the State of Texas not otherwise appropriated, to pay the expenses of such publication and election.

[NOTE.—H. J. R. No. 27 passed the House of Representatives by a two-thirds vote, yeas 108, nays 22; and passed the Senate by a two-thirds vote, yeas 23, nays 4.]

Approved March 19, 1917.

## RELATING TO TAXATION BY SCHOOL DISTRICTS.

S. J. R. No. 17.]

Proposing an amendment to Section 3 of Article VII of the Constitution of the State of Texas by exempting independent and common school districts from the limitation of a total tax of one dollar on the one hundred dollars valuation for any one year, and making an appropriation therefor.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Section 3 of Article VII of the Constitution be so amended as hereafter to read as follows: (Creating a new Section 3)

Section 3. One-fourth of the revenue derived from the State occupation taxes and a poll tax of one (\$1.00) dollar on every inhabitant of this state, between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of the public free schools; and in addition thereto, there shall be levied and collected an annual ad valorem state tax of such an amount not to exceed thirty-five cents on the one hundred (\$100.00) dollars valuation, as with the available school fund arising from all other sources, will be sufficient to maintain and support the public schools of this State for a period of not less than six months in each year, and it shall be the duty of the State Board of Education to set aside a sufficient amount out of the said tax to provide free text books for the use of children attending the public free schools of this State; provided, however, that should the limit of taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the state and the legislature may also provide for the formation of school districts by general or special law without the local notice required in other cases of special legislation; and all such school districts, whether created by general or special law may embrace parts of two or more counties. And the legislature shall be authorized to pass laws for the assessment and collection of taxes in all said districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties. And the legislature may authorize an additional ad valorem tax to be levied and collected within all school districts heretofore formed or hereafter formed, for the further maintenance of public free schools, and the erection and equipment of school buildings therein; provided, that a majority of the qualified property tax-paying voters of the district voting at an election to be held for that purpose, shall vote such tax not to exceed in any one year one dollar on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts, nor to independent or common school districts created by general or special law.

SEC. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of the State at an election to be held throughout the state on the first Tuesday after the first Monday in November, 1920, at which election all voters favoring said proposed amend-

ment shall write or have printed on their ballots the words, "For the Amendment to Section 3 of Article VII of the Constitution of the State of Texas, providing that the limitation upon the amount of school district tax of one dollar on the one hundred dollars valuation shall not apply to independent or common school districts created by general or special law," and all those opposed to said amendment shall write or have printed on their ballots "Against the amendment to Section 3 of Article VII of the Constitution of the State of Texas, providing that the limitation upon the amount of school district tax of one dollar on the one hundred dollars valuation shall not apply to independent or common school districts created by general or special law."

SEC. 3. The Governor of the State is hereby directed to issue the necessary proclamation for said election and to have same published as required by the Constitution and existing laws of the State.

SEC. 4. That the sum of Five Thousand (\$5,000.00) Dollars, or so much thereof as may be necessary is hereby appropriated out of any funds in the Treasury of the State of Texas not otherwise appropriated, to pay the expenses of such publication and election.

[NOTE.—S. J. R. No. 17 passed the Senate by a  $\frac{2}{3}$  vote, yeas 28, nays 0; and passed the House of Representatives with amendments by a  $\frac{2}{3}$  vote, yeas 98, nays 7; the Senate concurred in the House amendments by a  $\frac{2}{3}$  vote, yeas 22, nays 0.]

Approved March 20, 1919.

### PERMITTING PRISONERS TO SHARE IN THE NET PROCEEDS FROM THE STATE PENITENTIARY SYSTEM.

H. J. R. No. 38.] HOUSE JOINT RESOLUTION.

Proposing an amendment to Article 16 of the Constitution of the State of Texas, by adding a new Section thereto to be known as Section 60; providing that the Legislature shall have power to enact laws authorizing a division of the net proceeds arising from the operation of the prison system of this State between the State and prisoners confined in the Penitentiary or their dependents; providing for the submission of a proposed amendment to a vote of the people, and making an appropriation to defray the expense of such election.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Article 16 of the Constitution of the State of Texas be amended by adding thereto a new section to be numbered Section 60 as follows:

Section 60. The Legislature shall have power to authorize a division of the net profits arising from the operation of the prison system during any one fiscal year between the State of Texas and the prisoners confined in the Penitentiary during said fiscal year or any part thereof, or their dependents in such proportion as the Legislature may deter-

PROPOSED AMENDMENT TO SECTION 3, ARTICLE 7, OF  
THE STATE CONSTITUTION.

H. J. R. No. 9.]

A Resolution proposing an amendment to Article 7, of the Constitution of the State of Texas by changing Section 3, eliminating the provision authorizing the Legislature to create special districts and making an appropriation therefor.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Section 3 Article 7, of the Constitution be so changed as to read as follows: (creating new Section 3.)

"Section 3. One-fourth of the revenue derived from the State occupation taxes and poll tax of one dollar on every inhabitant of the State, between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of the public free schools; and in addition thereto, there shall be levied and collected an annual ad valorem State tax of such an amount not to exceed thirty-five cents on the one hundred (\$100.00) dollars valuation, as with the available school fund arising from all other sources, will be sufficient to maintain and support the public schools of this State for a period of not less than six months in each year, and it shall be the duty of the State Board of Education to set aside a sufficient amount out of the said tax to provide free text books for the use of children attending the public free schools of this State; provided, however, that should the limit of taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State and the Legislature may also provide for the formation of school district by general laws; and all such school districts may embrace parts of two or more counties, and the Legislature shall be authorized to pass laws for the assessment and collection of taxes in all said districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts heretofore formed or hereafter formed, for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified property tax paying voters of the district voting at an election to be held for that purpose, shall vote such tax not to exceed in any one year one (\$1.00) dollar on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts, nor to independent or common school districts created by general or special law."

SEC. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of the State at an elec-

### SECTION 3, ARTICLE 7, OF THE CONSTITUTION.

Article 7, of the Constitution  
eliminating the provi-  
special districts and mak-

#### State of Texas:

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new Section 3.)

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rising from all other  
and support the public  
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of school district tax  
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ed by general or spe-  
endment shall be sub-  
f the State at an elec-

tion to be held throughout the State on the first Tuesday after the first Monday in November, 1926, at which election all voters favoring said proposed amendment shall write or have printed on their ballots the words, "For the amendment to the Constitution of the State of Texas eliminating the provision which authorizes the Legislature to create special school districts," and all those opposed shall write or have printed on their ballots the words, "Against the amendment to the Constitution of the State of Texas eliminating the provision which authorizes the Legislature to create special school districts."

SEC. 3. The Governor of the State is hereby directed to issue the necessary proclamation for said election and to have same published as required by the Constitution and existing laws of the State.

SEC. 4. That the sum of two thousand (\$2,000.00) dollars, or so much thereof as may be necessary, is hereby appropriated out of any funds in the Treasury of the State of Texas not otherwise appropriated, to pay the expenses of such publication and election.

[NOTE.—The enrolled resolution shows that this resolution passed the House, 101 yeas, 2 nays; passed the Senate, 26 yeas, 0 nays.]

Approved April 4, 1925.

### PROPOSED AMENDMENT TO SECTION 58, ARTICLE 16 OF THE STATE CONSTITUTION.

#### S. J. R. No. 9.]

Relating to the amending of Article 16, Section 58, of the Constitution of the State of Texas, abolishing the Board of Prison Commissioners; providing for the supervision and management of the Prison System, under such laws as may be provided for by the Legislature.

#### *Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Article 16, Section 58 of the Constitution of the State of Texas, be amended so as to hereafter read as follows:

Section 58. The Legislature shall have full power and authority to provide by law for the management and control of the Prison System of Texas; and to this end shall have power and authority to place the prison system under the supervision, management and control of such trained and experienced officer, or officers, as the Legislature may from time to time provide for by law.

SEC. 2. The above constitutional amendment shall be submitted to a vote of the qualified electors of this State at a general election to be held November 3, 1926, at which election all voters favoring said proposed amendment shall write or have printed on their ballot the words "For the amendment of Ar-

AWS.

OF OYSTERS IN HEAD  
MATAGORDA BAY.

9.

the dredging of oysters in the  
of a line from Palacios Point  
across Matagorda Bay to Cotton  
providing a penalty, and declar-

the State of Texas:

or any person to operate a  
of any dredge for the pur-  
Waters of Matagorda Bay  
the Mainland in Matagorda  
Bayou on the Matagorda

provisions of this Act shall,  
meanor, and shall be fined  
nor more than One Hun-  
dred dollars for each  
violation of a second offense,  
in addition to the fine herein  
provided for dredging oysters for a

ing of oysters in the upper  
part of the bay is endangering the sup-  
ply and an imperative public  
policy requiring bills to be read  
and suspended, and the same  
shall take effect and be  
enacted.

House April 24, 1935, by a  
Senate, May 3, 1935, by a

## JOINT RESOLUTIONS

FORTY-FOURTH LEGISLATURE, 1935  
REGULAR SESSION

PROPOSING AN AMENDMENT TO THE CONSTITUTION  
PERMITTING THE FURNISHING OF STATE OFFICIAL  
TEXT BOOKS FREE TO EVERY CHILD OF  
SCHOLASTIC AGE ATTENDING ANY  
SCHOOL WITHIN THE STATE.

S. J. R. No. 24.]

### SENATE JOINT RESOLUTION.

A Joint Resolution proposing to amend Sections 3 and 5 of Article 7 of  
the Constitution of the State of Texas so as to permit the furnishing  
of State official text books free to every child of scholastic age, attend-  
ing any school within the State.

Enacted by the Legislature of the State of Texas:

SECTION 1. That Section 8 of Article 7 of the Constitution of  
the State of Texas be amended so that hereafter it shall read as  
follows:

Section 3. One-fourth of the revenue derived from the State  
occupation taxes and poll tax of One (\$1.00) Dollar on every in-  
habitant of the State, between the ages of twenty-one and sixty  
years, shall be set apart annually for the benefit of the public  
free schools; and in addition thereto, there shall be levied and  
collected an annual ad valorem State tax of not more than an amount not  
to exceed Thirty-five Cents on the One Hundred (\$100.00) Dol-  
lars valuation, as with the available school fund arising from  
all other sources will be sufficient to maintain and support the  
public schools of the State for a period of not less than six  
months in each year, and it shall be the duty of the State Board  
of Education to set aside, under such regulations and in such  
manner as may be provided by law, a sufficient amount out of  
the said tax to provide free text books for the use of children  
within the scholastic age attending any school in this State; pro-  
vided, however, that should the limit of taxation herein named  
be insufficient the deficit may be met by appropriation from the  
General Funds of the State and the Legislature may also provide  
for the formation of school districts by General Laws; and all  
such school districts may embrace parts of two or more counties,  
and the Legislature shall be authorized to pass laws for the as-  
sessment and collection of taxes in all said districts and for the  
management and control of the public school or schools of such



districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts heretofore formed or hereafter formed, for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified property tax-paying voters of the district voting at an election to be held for that purpose, shall vote such tax not to exceed in any one year One (\$1.00) Dollar on the One Hundred (\$100.00) Dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts, nor to independent or common school districts created by General or Special Law."

SEC. 2. That Section 5, Article 7, of the Constitution of the State of Texas, be amended so that hereafter it shall read as follows:

"Section 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, to which the Legislature may add, not exceeding one per cent annually, of the total value of the permanent school fund, such value to be ascertained by the Board of Education until otherwise provided by law, and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same, or any part thereof ever be appropriated to or used for the support of any sectarian school, provided that the State Board of Education may furnish State adopted text books free to every child of scholastic age, attending any school within the State; and the available school fund herein provided shall be distributed to the several counties as may be provided by law and applied in such manner as may be provided by law."

SEC. 3. The foregoing Constitutional Amendment shall be submitted to the electors of this State qualified to vote on Constitutional Amendments at the election to be held on the Fourth Saturday in August, 1935, at which election there shall be printed on each ballot the following:

"FOR THE AMENDMENT TO THE CONSTITUTION OF THE STATE OF TEXAS PERMITTING THE FURNISHING OF FREE TEXT BOOKS TO EVERY CHILD OF SCHOLASTIC AGE ATTENDING ANY SCHOOL WITHIN THIS STATE,"  
and

"AGAINST THE AMENDMENT TO THE CONSTITUTION OF THE STATE OF TEXAS PERMITTING THE FURNISHING OF FREE TEXT BOOKS TO EVERY CHILD OF

used of territory wholly  
more counties, and the  
valorem tax to be  
districts heretofore formed  
maintenance of public free  
ment of school buildings  
qualified property tax-  
election to be held for  
exceed in any one year  
(\$100.00) Dollars valua-  
such district, but the  
district tax herein author-  
or towns constituting  
nor to independent or  
Special Law."

The Constitution of the  
after it shall read as

and other funds, and  
lands hereinbefore set  
permanent school fund,  
and the taxes herein  
school fund, to which  
per cent annually, of  
and, such value to be  
otherwise provided  
applied annually to  
no law shall ever be  
permanent or available  
nor shall the same,  
or used for the sup-  
the State Board of  
books free to every  
within the State;  
shall be distributed  
by law and applied

amendment shall be  
to vote on Con-  
held on the Fourth  
there shall be

CONSTITUTION OF  
THE FURNISHING  
OF SCHOLASTIC  
THIS STATE."

THE CONSTITU-  
TING THE FUR-  
RY CHILD OF

SCHOLASTIC AGE ATTENDING ANY SCHOOL WITHIN  
THIS STATE," and every voter shall mark out with pen or pen-  
cil the clause which he desires to vote against, or the word  
"FOR" or the word "AGAINST," at the beginning of such clause,  
so as to indicate his vote for or against each of said proposed  
amendments.

SEC. 4. The Governor is hereby directed to issue the necessary  
proclamation for said election and shall have the same pub-  
lished as required by the Constitution and laws of this State,  
and said election shall be held under the Constitution and laws  
of this State.

SEC. 5. The sum of Ten Thousand (\$10,000.00) Dollars or so  
much thereof as shall be necessary is hereby appropriated out  
of the State Treasury to pay the expenses of the publications and  
elections provided for in this Resolution.

[NOTE.—S. J. R. No. 24 passed the Senate, March 18, 1935, by  
a vote of 28 yeas, 1 nay; Senate concurred in House amendments,  
April 5, 1935, by a vote of 26 yeas, 1 nay; passed the House,  
with amendments, April 5, 1935, by a vote of 129 yeas, 9 nays.]

Filed in the Department of State, April 8, 1935, with the  
Governor's signature.

# PROPOSING AN AMENDMENT TO THE CONSTITUTION PROVIDING FOR TEMPORARY COMMITMENT OF MENTALLY ILL PERSONS FOR OBSERVA- TION AND/OR TREATMENT WITHOUT NECESSITY OF TRIAL BY JURY.

H. J. R. No. 39.]

## HOUSE JOINT RESOLUTION.

House Joint Resolution proposing an Amendment to Section 15, of Article  
1, of the Constitution of Texas, and providing that the Legislature may  
authorize the temporary commitment of mentally ill persons, not  
charged with a criminal offense, for treatment and/or observation with-  
out the necessity of a trial by jury.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Section 15, of Article 1, of the Constitution  
of the State of Texas be so amended as to hereafter read as  
follows:

"Sec. 15. The right of trial by jury shall remain inviolate.  
The Legislature shall pass such laws as may be needed to reg-  
ulate the same, and to maintain its purity and efficiency. Pro-  
vided, that the Legislature may provide for the temporary com-  
mitment, for observation and/or treatment, of mentally ill per-

# PROPOSED CONSTITUTIONAL AMENDMENTS

## SENATE JOINT RESOLUTIONS

### PROPOSED CONSTITUTIONAL AMENDMENT—INDEPENDENT SCHOOL DISTRICT TAXES

S. J. R. No. 6

Proposing an Amendment to Article VII of the Constitution of Texas by adding a Section to be known as Section 3-b, providing that school taxes theretofore voted in any independent school district, the major portion of which is within Dallas County, shall not be abrogated, canceled or invalidated by a change in boundaries nor shall bonds voted, but unissued, at the time of such change, be invalidated by such change; authorizing the levy of taxes after such change without further election in the district as changed; providing an exception in the case of the annexation or consolidation of whole districts; providing for an election and the issuance of a proclamation therefor.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Article VII of the Constitution of Texas be amended by adding thereto the following:

"Section 3-b. No tax for the maintenance of public free schools voted in any independent school district, the major portion of which is located in Dallas County, nor any bonds voted in any such district, but unissued, shall be abrogated, canceled or invalidated by change of any kind in the boundaries thereof. After any change in boundaries, the governing body of any such district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted. In those instances where the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, the taxes to be levied for the purposes hereinabove authorized may be in the amount or at not to exceed the rate theretofore voted in the district having at the time of such change the greatest scholastic population according to the latest scholastic census

## 57TH REGULAR SESSION

and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued."

Sec. 2. The foregoing Constitutional Amendment shall be submitted to a vote of the qualified electors of this state at an election to be held throughout the State of Texas on the first Tuesday after the first Monday in November, 1962, at which election all ballots shall have printed thereon the following:

"FOR THE AMENDMENT TO ARTICLE VII OF THE CONSTITUTION OF TEXAS, BY ADDING THERETO SECTION 3-b PROVIDING THAT TAXES OR BONDS PREVIOUSLY VOTED IN ANY INDEPENDENT SCHOOL DISTRICT, THE MAJOR PORTION OF WHICH IS IN DALLAS COUNTY, SHALL NOT BE ABROGATED, CANCELED OR INVALIDATED BY ANY CHANGE IN BOUNDARIES AND AUTHORIZING THE CONTINUANCE OF THE LEVY OF TAXES AFTER SUCH CHANGE WITHOUT FURTHER ELECTION"

"AGAINST THE AMENDMENT TO ARTICLE VII OF THE CONSTITUTION OF TEXAS, BY ADDING THERETO SECTION 3-b PROVIDING THAT TAXES OR BONDS PREVIOUSLY VOTED IN ANY INDEPENDENT SCHOOL DISTRICT, THE MAJOR PORTION OF WHICH IS IN DALLAS COUNTY, SHALL NOT BE ABROGATED, CANCELED OR INVALIDATED BY ANY CHANGE IN BOUNDARIES AND AUTHORIZING THE CONTINUANCE OF THE LEVY OF TAXES AFTER SUCH CHANGE WITHOUT FURTHER ELECTION"

If it appears from the returns of said election that a majority of the votes cast were in favor of said Amendment, the same shall become a part of the State Constitution and be effective on and after the date of its adoption.

Sec. 3. The Governor shall issue the necessary proclamation for said election, and shall have the same published as required by the Constitution and laws of this state.

Passed the Senate, May 8, 1961: Yeas 29, Nays 0; passed the House, May 26, 1961: Yeas 118, Nays 10.

Filed without Governor's signature, June 17, 1961.

**PROPOSED CONSTITUTIONAL AMENDMENT—  
SCHOOL DISTRICT TAXES**

H. J. R. No. 65

Proposing an Amendment to Section 3-b of Article VII of the Constitution of Texas providing that school taxes theretofore voted in any independent school district or in any junior college district shall not be abrogated, cancelled or invalidated by a change in boundaries nor shall bonds voted, but unissued, at the time of such change, be invalidated by such change; authorizing the levy of taxes after such change without further election in the district as changed; providing an exception in the case of the annexation or consolidation of whole districts; providing for an election and the issuance of a proclamation therefor.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Section 3—b of Article VII of the Constitution of Texas be amended to be and read as follows:

"Section 3—b. No tax for the maintenance of public free schools voted in any independent school district and no tax for the maintenance of a junior college voted by a junior college district, nor any bonds voted in any such district, but unissued, shall be abrogated, cancelled or invalidated by change of any kind in the boundaries thereof. After any change in boundaries, the governing body of any such district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools or the maintenance of a junior college, as the case may be, and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted. In those instances where the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, the taxes to be levied for the purposes hereinabove authorized may be in the amount or at not to exceed the rate theretofore voted in the district having at the time of such change the greatest scholastic population according to the latest scholastic census and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued."

Sec. 2. The foregoing Constitutional Amendment shall be submitted to a vote of the qualified electors of this State at an election to be held throughout the State of Texas on the first Tuesday after the first Monday in November, 1966, at which election all ballots shall have printed thereon the following:

**L AMENDMENT—  
TAXES**

Article VII of the Constitution of the State of Texas providing that taxes or bonds previously voted in any independent school district shall not be abrogated, cancelled or invalidated by any change in boundaries and authorizing the continuance of the levy of taxes after such change without further election.

of Texas:

VII of the Constitution of

the State of Texas providing that taxes or bonds previously voted in any independent school district shall not be abrogated, cancelled or invalidated by any change in boundaries and authorizing the continuance of the levy of taxes after such change without further election.

Amendment shall be submitted at an election to be held on the first Monday after the first Monday shall have printed thereon

**PROPOSED CONSTITUTIONAL AMENDMENTS**

"FOR the Amendment to Section 3—b of Article VII of the Constitution of Texas providing that taxes or bonds previously voted in any independent school district or in any junior college district shall not be abrogated, cancelled or invalidated by any change in boundaries and authorizing the continuance of the levy of taxes after such change without further election.

"AGAINST the amendment to Section 3—b of Article VII of the Constitution of Texas providing that taxes or bonds previously voted in any independent school district or in any junior college district shall not be abrogated, cancelled or invalidated by any change in boundaries and authorizing the continuance of the levy of taxes after such change without further election."

If it appears from the returns of said election that a majority of the votes cast were in favor of said Amendment, the same shall become a part of the State Constitution and be effective on and after the date of its adoption.

Sec. 3. The Governor shall issue the necessary proclamation for said election, and shall have the same published as required by the Constitution and Laws of this State.

Adopted by the House on May 4, 1965: Yeas 131, Nays 9; passed by the Senate on May 27, 1965: Yeas 30, Nays 0.

Signed by the Governor June 18, 1965.

**PROPOSED CONSTITUTIONAL AMENDMENT—COUNTIES—  
CONSOLIDATION OF GOVERNMENTAL FUNCTIONS**

H. J. R. No. 69

Proposing an Amendment to the Constitution of the State of Texas by adding a new Section, Section 63, to Article III; authorizing the Legislature to provide by statute for the accomplishment of governmental functions within any county having one million, two hundred thousand (1,200,000) or more inhabitants by the consolidation of the functions of government or by contract between any political subdivision(s) located within the county and any other political subdivision(s) located within the county or with the county; providing for an election and the issuance of a proclamation therefor.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That the Constitution of the State of Texas be amended by adding a new Section in Article III, to be known as Section 63, reading as follows:

"Section 63

"(1) The Legislature may by statute provide for the consolidation of some functions of government of any one or more political subdivisions comprising or located within any county in this State having one million, two hundred thousand (1,200,000) or more inhabitants. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these political subdivisions, under such terms and conditions as the Legislature may require.

"(2) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the per-

## PROPOSED CONSTITUTIONAL AMENDMENT— AD VALOREM TAXES

S. J. R. No. 32

Proposing an amendment to Article VIII of the Constitution of the State of Texas by adding a Section 1-e providing for a gradual abolition of the property tax levied by Article VII, Section 3; an abolition of the Two Cent ad valorem tax levied by Article VII, Section 17 after December 31, 1976; and providing for deletion of references to ad valorem taxes in Article III, Section 51.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Article VIII, Constitution of the State of Texas, be amended by adding a new Section 1-e to read as follows:

"Section 1-e.

"1. From and after December 31, 1978, no State ad valorem taxes shall be levied upon any property within this State for State purposes except the tax levied by Article VII, Section 17, for certain institutions of higher learning.

"2. The State ad valorem tax authorized by Article VII, Section 3, of this Constitution shall be imposed at the following rates on each One Hundred Dollars (\$100.00) valuation for the years 1968 through 1974: On January 1, 1968, Thirty-five Cents (35¢); on January 1, 1969, Thirty Cents (30¢); on January 1, 1970, Twenty-five Cents (25¢); on January 1, 1971, Twenty Cents (20¢); on January 1, 1972, Fifteen Cents (15¢); on January 1, 1973, Ten Cents (10¢); on January 1, 1974, Five Cents (5¢); and thereafter no such tax for school purposes shall be levied and collected. An amount sufficient to provide free text books for the use of children attending the public free schools of this State shall be set aside from any revenues deposited in the Available School Fund, provided, however, that should such funds be insufficient, the deficit may be met by appropriation from the general funds of the State.

"3. The State ad valorem tax of Two Cents (2¢) on the One Hundred Dollars valuation levied by Article VII, Section 17, of this Constitution shall not be levied after December 31, 1976. At any time prior to December 31, 1976, the Legislature may establish a trust fund solely for the benefit of the widows of Confederate veterans and such Texas Rangers and their widows as are eligible for retirement or disability pensions under the provisions of Article XVI, Section 66, of this Constitution, and after such fund is established the ad valorem tax levied by Article VII, Section 17, shall not thereafter be levied.

"4. Unless otherwise provided by the Legislature, after December 31, 1976 all delinquent State ad valorem taxes together with penalties and interest thereon, less lawful costs of collection, shall be used to secure bonds issued for permanent improvements at institutions of higher learning, as authorized by Article VII, Section 17, of this Constitution.

"5. The fees paid by the State for both assessing and collecting State ad valorem taxes shall not exceed two per cent (2%) of the State taxes collected. This subsection shall be self-executing."

Sec. 2. That Article III, Section 51, of the Constitution of the State of Texas, be amended so as hereafter to read as follows:

"Section 51. The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever, provided, however, the Legislature may grant aid to indigent and disabled Confederate soldiers and sailors under such regulations and limitations as may be deemed by the Legislature as expedient, and to their

## REGULAR SESSION

### CONSTITUTIONAL AMENDMENT— PROPERTY TAXES

No. 32

the Constitution of the State of Texas  
for a gradual abolition of the property  
tax on abolition of the Two Cent ad valorem  
after December 31, 1976; and providing  
for taxes in Article III, Section 51.

State of Texas:

Constitution of the State of Texas, be  
read as follows:

1, 1978, no State ad valorem taxes  
this State for State purposes ex-  
Section 17, for certain institutions of

authorized by Article VII, Section 3, of  
the following rates on each One  
for the years 1968 through 1974:  
5¢); on January 1, 1969, Thirty  
centy-five Cents (25¢); on January  
y 1, 1972, Fifteen Cents (15¢);  
January 1, 1974, Five Cents (5¢);  
purposes shall be levied and col-  
ide free text books for the use of  
of this State shall be set aside  
available School Fund, provided.  
icient, the deficit may be met by  
the State.

Cents (2¢) on the One Hundred  
Section 17, of this Constitution  
6. At any time prior to Decem-  
olish a trust fund solely for the  
rans and such Texas Rangers  
erment or disability pensions  
on 66, of this Constitution, and  
valorem tax levied by Article VII.

Legislature, after December  
taxes together with penalties  
collection, shall be used to se-  
ents at institutions of higher  
tion 17, of this Constitution.  
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r cent (2%) of the State taxes  
ting."

the Constitution of the State  
as follows:

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ic moneys to any individual,  
er corporations whatsoever;  
nt aid to indigent and dis-  
er such regulations and limita-  
as expedient, and to their

## PROPOSED CONSTITUTIONAL AMENDMENTS

widows in indigent circumstances under such regulations and limitations  
as may be deemed by the Legislature as expedient; provided that the  
provisions of this Section shall not be construed so as to prevent the grant  
of aid in cases of public calamity."

Sec. 3. The foregoing Constitutional Amendment shall be submitted  
to a vote of the qualified electors of this State at an election to be held  
on the first Tuesday after the first Monday in November 1968, at which  
election all ballots shall have printed on them the following:

"FOR the Constitutional Amendment continuously reducing State ad  
valorem property taxes and abolishing all State ad valorem property taxes  
after December 31, 1978, except the tax levied by Article VII, Section 17,  
for certain institutions of higher learning.

"AGAINST the Constitutional Amendment continuously reducing  
State ad valorem property taxes and abolishing all State ad valorem prop-  
erty taxes after December 31, 1978, except the tax levied by Article VII,  
Section 17, for certain institutions of higher learning.

Sec. 4. The Governor of the State of Texas shall issue the necessary  
proclamation for the election, and this Amendment shall be published in  
the manner and for the length of time as required by the Constitution and  
laws of this state. The publication of this Amendment shall be limited to  
the publication of Sections 1, 2 and 3 of this Resolution only.

Passed by the Senate on May 2, 1967: Yeas 21, Nays 8; May 19, 1967,  
Senate concurred in House amendments: Yeas 21, Nays 7; adopted  
by the House on May 18, 1967, with amendments: Yeas 102, Nays  
34.

Signed by the Governor May 27, 1967.

### PROPOSED CONSTITUTIONAL AMENDMENT—DALLAS COUNTY—BONDS

S. J. R. No. 37

Proposing an amendment to Article III, Constitution of the State of Texas, by add-  
ing a new Section 52e to give Dallas County the power to issue bonds under  
Article III, Section 52 of the Constitution for the construction, maintenance  
and operation of macadamized, graveled or paved roads and turnpikes, or  
in aid thereof, upon a vote of a majority of the resident property taxpayers  
voting thereon who are qualified electors of said county, and to provide that  
bonds heretofore or hereafter issued under Subsections (a) and (b) of said  
Section 52 shall not be included in determining the debt limit prescribed in  
said Section, and fixing the date for the election on the adoption of said  
amendment.

Be it resolved by the Legislature of the State of Texas:

Section 1. That Article III, Constitution of the State of Texas, be  
amended by adding a new Section 52e to read as follows:

"Section 52e. Bonds to be issued by Dallas County under Section 52 of  
Article III of this Constitution for the construction, maintenance and op-  
eration of macadamized, graveled or paved roads and turnpikes, or in aid  
thereof, may, without the necessity of further or amendatory legislation,  
be issued upon a vote of a majority of the resident property taxpayers vot-  
ing thereon who are qualified electors of said county, and bonds heretofore  
or hereafter issued under Subsections (a) and (b) of said Section 52 shall  
not be included in determining the debt limit prescribed in said Section."

Sec. 2. The foregoing constitutional amendment shall be submitted to  
vote of the qualified electors of this state at an election to be held on the



## AL AMENDMENTS

ion of 1876

enacted, repealed, or superseded  
Constitution of 1876, as amended  
continue in effect as if statutes,  
in conflict with the 1976 revision

ue in office until the end of their  
abolished in accordance with this  
eto.

on of the effective date of revised  
e effective prior to September 1,

ate under amendments adopted

the secretary of state, after the  
ral, shall: (1) number, locate,  
ubsections, and change cross-  
in accordance with constitutional  
the state on November 4, 1975;  
ons of the transition schedule  
stitutional amendments adopted  
4, 1975; and (3) make other non-  
amendments to the constitution  
f the Texas Constitution from  
state on November 4, 1975."

riately numbered, is added to the

enacted after July 31, 1975, no  
because of conviction for a felony  
erated, on parole, or on proba-

de in the constitution prior to

visions, is not adopted, Section  
lows:

lude from office those who may  
f bribery, perjury, forgery, or

ment is September 1, 1976.

of this section propose an  
ns of the Texas Constitution.  
ualified electors at an election  
Monday in November, 1975. This  
ion No. 4 on the ballot if that  
this amendment is to be num-  
g by lot, and the secretary of  
his resolution accordingly. The  
oting for or against the proposi-  
ing the education provisions

## 34th LEGISLATURE—REGULAR SESSION

of the Texas Constitution." If a majority of the votes cast on the pro-  
posed amendment are cast in favor of the amendment:

(a) The education provisions of Article VII of the constitution are  
revised to read as follows:

### "ARTICLE VII

#### "EDUCATION

##### "Sec. 1. Equitable support of free public schools

"A general diffusion of knowledge being essential to the preservation  
of the liberties and rights of the people, the legislature has the duty to  
establish and provide by law for the equitable support and maintenance  
of an efficient system of free public schools below the college level. The  
system must furnish each individual an equal educational opportunity,  
but a school district may provide local enrichment of educational pro-  
grams exceeding the level provided by the state consistent with general  
law.

##### "Sec. 2. Permanent and Available School Funds

"(a) The Permanent School Fund consists of the property set apart,  
before or after this article takes effect, for the support of free public  
schools; the proceeds from sale and mineral development of the prop-  
erty; and the property purchased with the proceeds.

"(b) The Permanent School Fund is held in perpetual trust for the  
free public schools. The principal of the fund may not be spent. The  
land of the permanent fund may be sold, leased, or exchanged as provided  
by law. The State Board of Education shall direct the investment of all  
Permanent School Fund money in the manner prescribed by law.

"(c) The Available School Fund consists of the income from the  
Permanent School Fund and the state taxes dedicated to the Available  
School Fund.

"(d) The State Board of Education shall set aside from the Available  
School Fund an amount sufficient to provide the free textbooks, and other  
instructional materials authorized by law, that are required in educa-  
tional programs in the free public schools. The remainder of the Avail-  
able School Fund must be distributed among the counties according to  
their respective scholastic populations and must be spent for the support  
of free public schools in the manner prescribed by law.

##### "Sec. 3. County Public School Fund

"(a) The County Public School Fund of each county consists of the  
property transferred to the county for the support of free public schools  
in that county, the proceeds from sale and mineral development of the  
property, and the property purchased with the proceeds.

"(b) Title to the property is in the county and may not be divested  
by limitation. A county may sell, lease, or exchange the property and  
invest the proceeds in the manner prescribed by law. A county may  
annually spend the income from the fund for the support of its free public  
schools in the manner prescribed by law.

"(c) The governing body of a county may transfer in the manner  
prescribed by law all or part of the property in its County Public School  
Fund to the school districts of the county for use by them to reduce their  
bonded indebtedness or to make permanent improvements. State finan-  
cial aid to a school district may not be reduced because of a transfer under  
this subsection.

## PROPOSED CONSTITUTIONAL AMENDMENTS

### "Sec. 4. State Board of Education

"The legislature shall provide by law for a State Board of Education composed of elected members.

### "Sec. 5. School and community junior college districts

"The legislature shall provide by general law for school districts and community junior college districts.

### "Sec. 6. First class colleges and universities

"The legislature shall provide by law for a system of higher education of the first class.

### "Sec. 7. Permanent and Available University Funds

"(a) The Permanent University Fund consists of the land set apart for The University of Texas by Article VII, Section 15, of the Constitution of 1876, as amended and as it existed on November 4, 1975, and the Legislative Act of April 10, 1883; the proceeds from sale and mineral development of the land; and the property purchased with the proceeds.

"(b) The Permanent University Fund is held in perpetual trust for the people of Texas and for the use and benefit of The Texas A&M University System and The University of Texas System. The principal of the fund may not be spent. The Board of Regents of The University of Texas System may sell, lease, exchange, or otherwise manage the assets of the fund in the manner prescribed by law and shall invest all proceeds.

"(c) The Board of Regents of The University of Texas System shall make full disclosure of all investments as provided by law. The board of regents shall invest the Permanent University Fund in accordance with generally accepted fiduciary standards but may invest only in stocks or bonds, debentures, or other obligations and may not:

"(1) invest in the stock of a corporation that is not incorporated in the United States;

"(2) invest in the stock of a corporation unless:

"(A) the corporation or its predecessors have paid dividends on common stock for at least five years preceding investment; and

"(B) the stock is either:

"(i) listed on an exchange registered with the Securities and Exchange Commission or its successor; or

"(ii) issued by a bank or insurance company with capital and surplus of not less than \$5 million and admitted assets of not less than \$50 million;

"(3) invest more than one percent of the fund in the securities of any one corporation;

"(4) permit the fund to own more than five percent of the voting stock of any one corporation; or

"(5) invest in the obligations of any state or its political subdivisions other than the State of Texas or its political subdivisions.

"(d) The Available University Fund consists of the income from the Permanent University Fund less administrative expense and less the net income from grazing leases of permanent-fund land. Out of one-third of the Available University Fund the legislature shall appropriate an annual sum sufficient to service Permanent University Fund bonds or notes issued by the governing board of The Texas A&M University System under authority of this article. The legislature shall appropriate the remainder of that one-third for the support and maintenance of Texas A&M University in the County of Brazos. Out of two-thirds of the Available University Fund the legislature shall appropriate an annual sum sufficient to service Permanent University Fund bonds or notes issued by the Board of Regents of The University of Texas System under authority of this ar-

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and the net income from grazing leases of permanent-fund land for the  
support and maintenance of The University of Texas at Austin.

**"Sec. 8. Permanent University Fund bonds and notes**

"(a) The governing boards of The Texas A&M University System and  
The University of Texas System each may issue negotiable bonds or notes  
for the benefit of the institutions included in their respective systems on  
the date this article is adopted. The aggregate principal amount of bonds  
and notes issued for The Texas A&M University System may not exceed  
10 percent, and for The University of Texas System may not exceed 20  
percent, of the value of the Permanent University Fund exclusive of real  
estate at the time of any issuance. The bonds or notes may be issued to  
acquire real property, construct permanent improvements, repair or re-  
habilitate existing permanent improvements, acquire library books or  
library materials, acquire capital equipment, or refund bonds.

"(b) Bonds and notes issued under this section are payable only out  
of the Available University Fund and must mature not more than 30 years  
from the date of issuance.

"(c) The governing boards of The Texas A&M University System and  
The University of Texas System each may pledge in whole or in part their  
respective interests in the Available University Fund to secure payment  
of bonds or notes issued under this section. No bonds or notes may be  
issued under this section without the prior approval of the attorney gen-  
eral. After approval the bonds and notes are incontestable.

**"Sec. 9. Higher Education Fund for Texas and bonds and notes**

"(a) There is hereby established the Higher Education Fund for Texas.

"(b) A state ad valorem tax is hereby levied on real property and  
tangible personal property of 10 cents on the \$100 assessed valuation for  
the Higher Education Fund for Texas. The rate of the tax may be changed  
by law, but not to exceed 10 cents on the \$100 assessed valuation. For  
purposes of this tax, the legislature shall establish by law an assessment  
ratio that must be applied uniformly throughout the state.

"(c) The legislature shall provide by law for an annual assessment of  
needs, according to which the fund is to be allocated among the state sys-  
tems of higher education (except institutions in The University of Texas  
System and The Texas A&M University System) and the state senior in-  
stitutions not included in a system. The fund must be allocated under  
equitable formulas based on statewide higher education needs. If in any  
year the total allocations are less than the revenue generated by the tax  
levied in this section, the surplus revenue accumulates in the fund and  
is to be invested as provided by law. Income from the fund is allocated  
as provided in this subsection.

"(d) The fund, income from the fund, or proceeds from bonds or notes  
issued under this section may be used to acquire real property, construct  
permanent improvements, repair or rehabilitate existing permanent im-  
provements, acquire library books or library materials, acquire capital  
equipment, or service debt incurred under this section.

"(e) The governing boards of the state systems of higher education  
(except institutions in The University of Texas System and The Texas  
A&M University System) and the governing boards of the state senior  
institutions not included in a system may issue negotiable bonds or notes  
for the benefit of their systems or institutions based on allocations to  
their systems or institutions under Subsection (c) of this section. Bonds  
or notes issued under this subsection are secured by and payable only from  
the fund. Bonds or notes may be issued to refund bonds issued under this

## PROPOSED CONSTITUTIONAL AMENDMENTS

section. No bonds or notes may be issued under this section without the prior approval of the attorney general. After approval the bonds and notes are incontestable.

"(f) The legislature may provide by law for allocation of a portion of the fund to state-owned vocational and technical institutes that do not grant academic degrees."

(b) In accordance with the following instructions, a transition schedule is added to the constitution prior to promulgation and publication of the constitution. If more than one constitutional amendment is adopted on November 4, 1975, the secretary of state, after the review and approval of the attorney general, shall eliminate duplicative transition provisions prior to promulgation and publication.

(1) The following transition schedule is added to the constitution after the last article of the constitution:

### "TRANSITION SCHEDULE

"The following schedule provisions remain part of this constitution until executed. Once each year the attorney general shall review the schedule and certify to the secretary of state which remaining provisions have been executed. A provision so certified is to be removed from and no longer published as part of the constitution.

#### "Section 1. Existing laws, rights, and proceedings

"All laws not inconsistent with the 1976 revision of this constitution continue in effect until they expire by their own limitation or until amended or repealed. All existing writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles, and rights continue unaffected except as modified in accordance with the revised provisions of this constitution.

#### "Sec. 2. Validity of issued bonds

"Bonds or other evidences of indebtedness validly issued by or on behalf of the state or any agency or political subdivision thereof under authority previously granted by the Constitution of 1876, as amended and as it existed prior to November 4, 1975, remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions notwithstanding the repeal of such authority by virtue of the 1976 revision of this constitution. The state, agency, or political subdivision, as the case may be, shall continue to provide for a source or sources of payment in accordance with the terms of the bonds or other evidences of indebtedness, whether from taxes or otherwise, until the bonds or other evidences of indebtedness are paid in full.

#### "Sec. 3. Delayed effective date

"Notwithstanding the general effective date of each article revised in 1976, as provided in each amendment, the following provisions become effective on the date indicated, or earlier if provided by law:

#### "Sec. 4. Provisions of the Constitution of 1876

"Until January 1, 1980, unless earlier enacted, repealed, or superseded by law, the following provisions of the Constitution of 1876, as amended and as it existed on November 4, 1975, continue in effect as if statutes, but only to the extent that they are not in conflict with the 1976 revision of this constitution:

#### "Sec. 5. Terms of office

"Elected officers in this state continue in office until the end of their terms unless their offices are sooner abolished in accordance with this constitution or laws enacted pursuant thereto.

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## "Sec. 6. Anticipatory legislation

"Laws may be enacted in anticipation of the effective date of re-  
vised articles, but those laws may not become effective prior to Septem-  
ber 1, 1976.

## "Sec. 7. Powers of the secretary of state under amendments adopted November 4, 1975

"Regarding nonsubstantive matters, the secretary of state, after the review and approval of the attorney general, shall: (1) number, locate, amend, or delete articles, sections, or subsections, and change cross-references in the Constitution of Texas in accordance with constitutional amendments adopted by the voters of the state on November 4, 1975; (2) number, locate, amend, or delete portions of the transition schedule of the constitution in accordance with constitutional amendments adopted by the voters of the state on November 4, 1975; and (3) make other nonsubstantive changes in the constitution or amendments to the constitution as required to assure an orderly revision of the Texas Constitution from amendments adopted by the voters of the state on November 4, 1975."

(2) The following subsection is added to Section 3 of the transition schedule and appropriately numbered:

"(—) Section 9 of Article VII on January 1, 1979."

(3) The following subsection is added to Section 4 of the transition schedule and appropriately numbered:

"(—) Article VII, Section 6b—insofar as it requires county permanent school funds to be distributed on a per scholastic basis."

(4) The following section is added to the transition schedule and appropriately numbered:

## "Sec. —. State ad valorem tax

"(a) Until December 31, 1978, Article VII, Section 17 (except for the first paragraph) of the Constitution of 1876, as amended and as it existed on November 4, 1975, continues in effect as if part of the constitution.

"(b) The state ad valorem tax on property of two cents on the \$100 assessed valuation levied by the first paragraph of Article VII, Section of the Constitution of 1876, as amended and as it existed on November 4, 1975, is hereby levied until December 31, 1978, unless an amendment revising the finance provisions of the constitution is adopted and a state ad valorem tax of two cents is levied in the constitution."

(c) The following changes are made in the constitution prior to promulgation and publication:

(1) Article VII of the constitution is repealed, except:

(A) If Proposition No. 1, The Separation of Powers, Legislature, and Executive, is not adopted, Section 16 (as added in 1928) of Article VII is retained in revised Article VII, and is appropriately renumbered; and Section 4 of revised Article VII is changed to read:

## "Sec. 4. State Board of Education

"The legislature shall provide by law for a State Board of Education composed of members elected for terms not to exceed six years."

(B) If Proposition No. 6, Local Government, is not adopted, the following is added to Article IX of the constitution and is appropriately numbered:

## "Sec. —. School districts

"(a) A school district may not levy an ad valorem tax unless the tax has been approved by a majority of the qualified voters of the dis-

## PROPOSED CONSTITUTIONAL AMENDMENTS

trict who vote on the question. School districts, other than independent or common districts, may not levy an annual ad valorem tax in excess of \$1 on the \$100 of assessed valuation of taxable property in the district.

"(b) The power of an independent school district or junior college district to levy ad valorem taxes or issue bonds previously voted is not lost by a change in its boundaries. After a change in boundaries, the governing body of each affected district may levy the ad valorem tax or issue the bonds previously voted in the district without another election. If a change in boundaries results in an independent school district annexing or being consolidated with one or more other whole school districts, the new district may levy the ad valorem tax or issue the bonds previously voted in the district with the greatest scholastic population."

(C) If Proposition No. 5, Finance, is not adopted:

(i) Section 6a and Section 16 (as added in 1930) of Article VII are retained in revised Article VII and are appropriately renumbered;

(ii) the following is added as a new section to revised Article VII and is appropriately numbered:

"Sec. —. Occupation taxes

"One-fourth of the revenue from state occupation taxes is dedicated to the Available School Fund."

(iii) Section 1-e of Article VIII is revised to read as follows:

"Section 1-e. (a) From and after December 31, 1974, no state ad valorem tax may be levied for school purposes.

"(b) From and after December 31, 1978, no state ad valorem tax may be levied for state purposes, except for that authorized in Section 9 of Article VII of this constitution.

"(c) After December 31, 1976, the legislature may provide by law for the use of delinquent state ad valorem taxes.

"(d) Fees paid by the state for assessing and collecting state ad valorem taxes may not exceed two percent of the state taxes collected."

(2) Section 51-b of Article III of the Constitution of 1876, as amended and as it existed on November 4, 1975, is repealed.

(3) If neither Proposition No. 7, General Provisions, nor Proposition No. 1, The Separation of Powers, Legislature, and Executive, is adopted:

(A) Article XVI, Section 30 of the constitution is amended to read as follows:

"Sec. 30. So long as the Railroad Commission, established by law, exists, it shall be composed of three Commissioners who shall be elected by the people at a general election for State officers, and their terms of office shall be six years; provided, Railroad Commissioners first elected after November 6, 1894, shall hold office as follows: One shall serve two years, and one four years, and one six years; their terms to be decided by lot immediately after they shall have qualified. And one Railroad Commissioner shall be elected every two years thereafter. In case of vacancy in said office the Governor of the State shall fill said vacancy by appointment until the next general election."

(B) The following is added as appropriately numbered to Section 4 of the transition schedule:

"(—) Article XVI, Section 30—insofar as it provides that the duration of all offices not fixed by law or the Constitution of Texas is not to exceed two years."

## AMENDMENTS

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## 64th LEGISLATURE—REGULAR SESSION

(4) If Proposition No. 1, The Separation of Powers, Legislature, and Executive, is not adopted:

(A) The following section is added to the transition schedule contained in Subsection (b) of this amendment as Section 8:

### "Sec. 8. Special session for implementation

"The governor shall call the legislature in special session before July 1, 1976. The governor shall include among the subjects designated in the proclamation those matters that the governor determines require implementation because of the adoption of one or more amendments revising one or more articles of the constitution."

(B) This section and Section 6 of the transition schedule become effective January 1, 1976.

(d) The effective date of this amendment is September 1, 1976, except for Subdivision (4) of Subsection (c) of this section, which becomes effective January 1, 1976.

Sec. 5. That the following subsections of this section propose an amendment revising the finance provisions of the Texas Constitution. This amendment is to be submitted to the qualified electors at an election held on the first Tuesday after the first Monday in November, 1975. This amendment is to be submitted as Proposition No. 5 on the ballot if that designation is permitted by law; otherwise, this amendment is to be numbered by the secretary of state after drawing by lot, and the secretary of state shall number the propositions in this resolution accordingly. The ballot at the election must provide for voting for or against the proposition: "The constitutional amendment revising the finance provisions of the Texas Constitution." If a majority of the votes cast on the proposed amendment are cast in favor of the amendment:

(a) The finance provisions of Article VIII of the constitution are revised to read as follows:

## "ARTICLE VIII

### "FINANCE

#### "Section 1. State taxation

"(a) State taxes may be levied and collected only by general law.

"(b) No state ad valorem tax on real property or tangible personal property may be levied for state purposes except (1) the tax of 10 cents on the \$100 assessed valuation levied under Article VII of this constitution and (2) a tax of two cents on the \$100 assessed valuation that is hereby levied to provide funds for the State Building Fund. This two-cent tax may be reduced by law.

#### "Sec. 2. Ad valorem taxation

"(a) Except as otherwise permitted in this article, all real property and tangible personal property must be taxed equally and uniformly in proportion to market value.

"(b) The legislature by general law shall provide for the establishment and enforcement of standards and procedures for appraisal of property for ad valorem tax purposes. These standards and procedures must be applied uniformly throughout the state. Except as limited by general law, a taxing authority levying a tax on property within a county may seek countywide enforcement of these standards and procedures.

"(c) Each county shall provide for appraisal of all taxable property within its boundaries in the manner prescribed by law. Each taxing authority imposing a tax on property within the county shall tax in pro-

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## JOINT RESOLUTIONS.

### No. 1.

**JOINT RESOLUTION.**—Making an appropriation of four thousand five hundred dollars, to be used in repairing and furnishing the Governor's Mansion.

Section 1. Be it enacted by the Legislature of the State of Texas: That the sum of four thousand five hundred dollars, or so much thereof, as may be necessary, out of any money in the Treasury not otherwise appropriated, is hereby appropriated, to be expended under the control and direction of the Governor, for repairing and furnishing the Governor's mansion and grounds.

Sec. 2. Whereas the Governor's mansion is now in a condition not fitted for comfortable occupancy, which creates an imperative public necessity and emergency which requires that the constitutional rule be suspended, and this act take effect from and after its passage.

Approved February 2, 1883.

Takes effect from passage.

### No. 2.

**JOINT RESOLUTION.**—Amending Sections 4 and 6, of Article 7 of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas: That sections 4 and 6 Article 7, of the Constitution of the State of Texas, be amended so as to read as follows:

Sec. 4. The lands herein set apart to the Public Free School fund, shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The Comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

Sec. 6. All lands heretofore, or hereafter granted to the several counties of this State for educational purposes, are of right the property of said counties respectively, to which they were granted, and title thereto



is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the commissioner's court of the county. Actual settlers residing on said lands, shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal shall be available fund.

Sec. 2. That the Governor of this State shall issue his proclamation ordering an election to be held on the second Tuesday in August A. D. 1883, at which time the foregoing amendments shall be submitted for adoption, to the qualified electors of this State.

Sec. 3. That those voting for the adoption of said amendment to Section 4, shall have written or printed on their ballots the words: "For amendment to Section 4, Article 7 of the Constitution," and those voting against the adoption of said amendment to Section 4, shall have written or printed on their ballots the words: "Against amendment to Section 4, Article 7 of the Constitution," and those voting for the adoption of said amendment to Section 6 shall have written or printed on their ballots the words; "For amendment to Section 6, Article 7, of the Constitution;" and those voting against the adoption of said amendment to Section 6, shall have written or printed on their ballots the words: "Against amendment to Section 6, Article 7, of the Constitution."

Received in office, March 26th, 1883.

NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 26th day of March, A. D. 1883, and was not signed by him or returned to the House in which it originated, with his objections thereto, within the time prescribed by the constitution, and thereupon became a law without his signature.

Takes effect after passage.

[Signed]

JOS. W. BAINES,  
Secretary of State.

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### No. 3.

**JOINT RESOLUTION.**—Requesting Texas Senators and Representatives to urge upon Congress, the settlement of the claims of those who suffered from the burning of the town of Brenham, Texas, in 1866.

Whereas a joint select committee of the Senate and House of Representatives of the Legislature of the State of Texas in 1866 who had been appointed to investigate and report the facts connected with the burning of a portion of the town of Brenham in Washington county, Texas, and to recommend the proper action to be had in the matter, on the 28th September 1866, reported that the fire was the work of United

## CONCURRENT RESOLUTION.

[C. S. H. C. R. No. 22.] Authorizing and instructing the State Board of Public Printing to dispose of the property comprising what is known as the State printing office.

Section 1. Be it resolved by the Legislature of the State of Texas: That the State Board of Public Printing is hereby authorized and instructed to advertise and sell all and singular the type, stands, stones, presses, boilers, engines, tools and implements, electrotyping machinery, tools, implements and material, and all other property of any character whatever and wherever found belonging to and comprising what was formerly known as the State printing office; not, however, including the outfit originally purchased for the Deaf and Dumb Institute for use in instructing the pupils in the art of printing and bookbinding in accordance with the provisions of an act of the Legislature March 13, 1875.

Sec. 2. Said Board of Public Printing shall dispose of said property as speedily as practicable, either at public or private sale, and in such manner as said board shall deem to be the best interest of the State, the proceeds to be paid over to the Comptroller to the credit of the general revenue account of the State.

Sec. 3. The fact that said property is rapidly deteriorating in value and the near approach of the close of the session and crowded condition of the calendar creates an emergency and an imperative public necessity for a suspension of the constitutional rule requiring joint resolutions to be read on three several days, and that this resolution take effect and be in force from and after its passage, and it is so enacted.

Approved May 4, 1895.

## JOINT RESOLUTION.

[H. J. R. No. 18.] To amend section 4 of article 7 of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas: That section 4 of article 7 of the Constitution of the State of Texas be so amended as to read hereafter as follows:

Section 4. The lands herein set apart to the public free school fund shall be sold under such regulations, at such times and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The Comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the board of education herein provided for in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities as may be prescribed by law, or in agricultural lands, for the benefit of the penitentiary system of the State, under such restrictions as may be prescribed by law, and the State shall be responsible for all such investments.

Sec. 2. The foregoing amendment shall be submitted to the qualified

voters of the State at the next general election. Those favoring its adoption shall have written or printed on their ballots the words, "For the amendment to section 4, article 7, of the Constitution," and those opposed to its adoption shall have written or printed on their ballots the words "Against the amendment to section 4, article 7, of the Constitution;" and the Governor of the State is hereby directed to issue the necessary proclamation for said election and have the same published, as required by the Constitution and existing laws of the State.

Approved April 27, 1895.

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#### CONCURRENT RESOLUTION.

Granting to John B. Hood Camp of Confederate Veterans the right to place in the Capitol grounds a monument to the Confederate dead.

Be it resolved by the Senate, the House of Representatives concurring: That John B. Hood Camp of Confederate Veterans be and they are hereby granted permission to erect a monument to the Confederate dead on the Capitol grounds in the city of Austin, and that the Superintendent of Public Buildings and Grounds be authorized, in conjunction with the committee appointed by said camp, to select a site for said monument.

Approved March 16, 1895.

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#### CERTIFICATE.

THE STATE OF TEXAS,  
Department of State.

I, Allison Mayfield, Secretary of State of the State of Texas, certify that the foregoing laws and resolutions, passed at the regular session of the Twenty-fourth Legislature, have been carefully examined and compared with the original enrolled bills, now on file in this department, and are true copies of said originals.

I further certify that the Twenty-fourth Legislature convened in the city of Austin January 8, A. D. 1895, and adjourned April 30, A. D. 1895.

In testimony whereof, I have subscribed my name and  
[SEAL] have hereto affixed the seal of the State of Texas, in the city of Austin, this June 22, A. D. 1895.

ALLISON MAYFIELD,  
Secretary of State.

**PROPOSED CONSTITUTIONAL AMENDMENT—PUBLIC FREE  
SCHOOL LAND—PATENTS—GOOD FAITH AND  
COLOR OF TITLE FOR 50 YEARS**

H. J. R. No. 117

Proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years as of November 15, 1981.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Article VII of the Texas Constitution be amended by adding Section 4A to read as follows:

Sec. 4A. (a) On application to the School Land Board, a natural person is entitled to receive a patent to land from the commissioner of the General Land Office if:

(1) the land is surveyed public free school land, either surveyed or platted according to records of the General Land Office;

(2) the land was not patentable under the law in effect immediately before adoption of this section;

(3) the person acquired the land without knowledge of the title defect out of the State of Texas or Republic of Texas and held the land under color of title, the chain of which dates from at least as early as January 1, 1932; and

(4) the person, in conjunction with his predecessors in interest:

(A) has a recorded deed on file in the respective county courthouse and has claimed the land for a continuous period of at least 50 years as of November 15, 1981; and

(B) for at least 50 years has paid taxes on the land together with all interest and penalties associated with any period of delinquency of said taxes; provided, however, that in the event that public records concerning the tax payments on the land are unavailable for any period within the past 50 years, the tax assessors-collectors of the taxing jurisdictions in which the land is located shall provide the School Land Board with a sworn certificate stating that, to the best of their knowledge, all taxes have been paid for the past 50 years and there are no outstanding taxes nor interest or penalties currently due against the property.

(b) The applicant for the patent must submit to the School Land Board certified copies of his chain of title and a survey of the land for which a patent is sought, if requested to do so by the board. The board shall determine the qualifications of the applicant to receive a patent under this section. Upon a finding by the board that the applicant meets the requirements of Subsection (a) of this section, the commissioner of the General Land Office shall award the applicant a patent. If the applicant is denied a patent, he may file suit against the board in a district court of the county in which the land is situated within 60 days from the date of the denial of the patent under this section. The trial shall be de novo and not subject to the Administrative Procedure and Texas Register Act, and the burden of proof is on the applicant.

(c) This section does not apply to beach land, submerged land, or islands, and may not be used by an applicant to resolve a boundary dispute. This section does not apply to land that, previous to the effective

REGULAR SESSION

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69th LEGIS—REGULAR SESSION

SJR 21, SEC 1

gainst the proposition: "The constitutional amendment to allow the legislature to provide by general law for the apportionment of the value of railroad rolling stock among counties for purposes of property taxation."

Adopted by the Senate on March 7, 1985, by the following vote: Yeas 30, Nays 0; adopted by the House on May 16, 1985, by the following vote: Yeas 136, Nays 0, two present not voting.

Received: May 22, 1985

To be voted on: November 4, 1986

S.J.R No. 16

Senate Joint Resolution proposing a constitutional amendment relating to the manner in which a person is charged with a criminal offense and to certain requirements applicable to state writs and processes.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. Article V, Section 12, of the Texas Constitution is amended to read as follows:

"Section 12. (a) All judges of courts of this State, by virtue of their office, are [be] conservators of the peace throughout the State. [The style of all writs and process shall be: The State of Texas. All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude: Against the peace and dignity of the State.]

"(b) An indictment is a written instrument presented to a court by a grand jury charging a person with the commission of an offense. An information is a written instrument presented to a court by an attorney for the State charging a person with the commission of an offense. The practice and procedures relating to the use of indictments and informations, including their contents, amendment, sufficiency, and requisites, are as provided by law. The presentment of an indictment or information to a court invests the court with jurisdiction of the cause."

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 1985. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to the manner in which a person is charged with a criminal offense and to certain requirements applicable to state writs and processes."

Adopted by the Senate on March 21, 1985, by the following vote: Yeas 26, Nays 0; adopted by the House on May 8, 1985, by the following vote: Yeas 129, Nays 8, one present not voting.

Received: May 14, 1985

To be voted on: November 5, 1985

S.J.R No. 21

Senate Joint Resolution proposing a constitutional amendment to authorize use of proceeds from the sale of permanent school fund land to acquire other land as part of the permanent school fund.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. Article VII, Section 4, of the Texas Constitution is amended to read as follows:

"Section 4. The lands herein set apart to the Public Free School fund, shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The [Comptroller shall invest the] proceeds of such sales must be used to acquire other land for the Public Free School fund as provided by law or the proceeds shall be invested by the treasurer; and of those heretofore made], as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments."

such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; and the Legislature may provide by law for the registration of all voters in all cities containing a population of ten thousand inhabitants or more.

Sec. 2. That the Governor of this State shall issue his proclamation ordering an election to be held on the second Tuesday in August, A. D. 1891, on this amendment, in accordance with article 17, section 1, of the Constitution; and those voting for the adoption of this amendment shall have written or printed on their ballots the words "For the amendment to section four, article six, of the Constitution, relating to voting;" and those voting against the adoption of said amendment shall have written or printed on their ballots the words "Against the amendment to section four, article six, of the Constitution, relating to voting."

Approved April 15, 1891.

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JOINT RESOLUTION NO. 19.

To amend section 5, article 7, of the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas; That section 5, article 7, of the Constitution of the State of Texas be so amended as to hereafter read as follows:

The principal of all bonds and other funds and the principal arising from the sale of the lands hereinbefore set apart to said school fund shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, to which the Legislature may add not exceeding one per cent annually of the total value of the permanent school fund; such value to be ascertained by the Board of Education until otherwise provided by law; and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law.

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors for members of the Legislature of the State of Texas, on the second Tuesday in August, 1891, at which election all voters favoring said proposed amendment shall write or have printed on their ballots the words "For the amendment to section 5, article 7, of the Constitution of the State of Texas;" and all the voters opposed to said amendment shall write or have printed on their ballots the words "Against the amendment to section 5, article 7, of the Constitution of the State of Texas."

Approved April 28, 1891.

LAWS.

OF OYSTERS IN HEAD  
MATAGORDA BAY.

49.

ing the dredging of oysters in the  
of a line from Palacios Point  
across Matagorda Bay to Cotton  
providing a penalty, and declar-

*the State of Texas:*

for any person to operate a  
ion of any dredge for the pur-  
Waters of Matagorda Bay  
in the Mainland in Matagorda  
Cotton Bayou on the Matagorda

provisions of this Act shall  
demeanor, and shall be fined  
(\$10) nor more than One Hun-  
conviction of a second offense,  
in addition to the fine herein  
ense to dredge oysters for a

edging of oysters in the upper  
ven to be scientifically un-  
and is endangering the sup-  
ency and an imperative public  
Rule requiring bills to be read  
be suspended, and the same  
Act shall take effect and be  
e, and it is so enacted.

House April 24, 1935, by a  
the Senate, May 3, 1935, by a

# JOINT RESOLUTIONS

FORTY-FOURTH LEGISLATURE, 1935  
REGULAR SESSION

PROPOSING AN AMENDMENT TO THE CONSTITUTION  
PERMITTING THE FURNISHING OF STATE OFFICIAL  
TEXT BOOKS FREE TO EVERY CHILD OF  
SCHOLASTIC AGE ATTENDING ANY  
SCHOOL WITHIN THE STATE.

S. J. R. No. 24.]

## SENATE JOINT RESOLUTION.

A Joint Resolution proposing to amend Sections 3 and 5 of Article 7 of  
the Constitution of the State of Texas so as to permit the furnishing  
of State official text books free to every child of scholastic age, attend-  
ing any school within the State.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Section 3 of Article 7 of the Constitution of  
the State of Texas be amended so that hereafter it shall read as  
follows:

"Section 3. One-fourth of the revenue derived from the State  
occupation taxes and poll tax of One (\$1.00) Dollar on every in-  
habitant of the State, between the ages of twenty-one and sixty  
years, shall be set apart annually for the benefit of the public  
free schools; and in addition thereto, there shall be levied and  
collected an annual ad valorem State tax of such an amount not  
to exceed Thirty-five Cents on the One Hundred (\$100.00) Dol-  
lars valuation, as with the available school fund arising from  
all other sources will be sufficient to maintain and support the  
public schools of the State for a period of not less than six  
months in each year, and it shall be the duty of the State Board  
of Education to set aside, under such regulations and in such  
manner as may be provided by law, a sufficient amount out of  
the said tax to provide free text books for the use of children  
within the scholastic age attending any school in this State; pro-  
vided, however, that should the limit of taxation herein named  
be insufficient the deficit may be met by appropriation from the  
General Funds of the State and the Legislature may also provide  
for the formation of school districts by General Laws; and all  
such school districts may embrace parts of two or more counties,  
and the Legislature shall be authorized to pass laws for the as-  
sessment and collection of taxes in all said districts and for the  
management and control of the public school or schools of such

districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school-districts heretofore formed or hereafter formed, for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified property tax-paying voters of the district voting at an election to be held for that purpose, shall vote such tax not to exceed in any one year One (\$1.00) Dollar on the One Hundred (\$100.00) Dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts, nor to independent or common school districts created by General or Special Law."

SEC. 2. That Section 5, Article 7, of the Constitution of the State of Texas, be amended so that hereafter it shall read as follows:

"Section 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, to which the Legislature may add, not exceeding one per cent annually, of the total value of the permanent school fund, such value to be ascertained by the Board of Education until otherwise provided by law. and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same, or any part thereof ever be appropriated to or used for the support of any sectarian school, provided that the State Board of Education may furnish State adopted text books free to every child of scholastic age, attending any school within the State; and the available school fund herein provided shall be distributed to the several counties as may be provided by law and applied in such manner as may be provided by law."

SEC. 3. The foregoing Constitutional Amendment shall be submitted to the electors of this State qualified to vote on Constitutional Amendments at the election to be held on the Fourth Saturday in August, 1935, at which election there shall be printed on each ballot the following:

"FOR THE AMENDMENT TO THE CONSTITUTION OF THE STATE OF TEXAS PERMITTING THE FURNISHING OF FREE TEXT BOOKS TO EVERY CHILD OF SCHOLASTIC AGE ATTENDING ANY SCHOOL WITHIN THIS STATE."  
and

"AGAINST THE AMENDMENT TO THE CONSTITUTION OF THE STATE OF TEXAS PERMITTING THE FURNISHING OF FREE TEXT BOOKS TO EVERY CHILD OF



SCHOLASTIC AGE ATTENDING ANY SCHOOL WITHIN THIS STATE," and every voter shall mark out with pen or pencil the clause which he desires to vote against, or the word "FOR" or the word "AGAINST," at the beginning of such clause, so as to indicate his vote for or against each of said proposed amendments.

SEC. 4. The Governor is hereby directed to issue the necessary proclamation for said election and shall have the same published as required by the Constitution and laws of this State, and said election shall be held under the Constitution and laws of this State.

SEC. 5. The sum of Ten Thousand (\$10,000.00) Dollars or so much thereof as shall be necessary is hereby appropriated out of the State Treasury to pay the expenses of the publications and elections provided for in this Resolution.

[NOTE.—S. J. R. No. 24 passed the Senate, March 18, 1935, by a vote of 28 yeas, 1 nay; Senate concurred in House amendments, April 5, 1935, by a vote of 26 yeas, 1 nay; passed the House, with amendments, April 5, 1935, by a vote of 129 yeas, 9 nays.]

Filed in the Department of State, April 8, 1935, with the Governor's signature.

PROPOSING AN AMENDMENT TO THE CONSTITUTION  
PROVIDING FOR TEMPORARY COMMITMENT OF  
MENTALLY ILL PERSONS FOR OBSERVA-  
TION AND/OR TREATMENT WITHOUT  
NECESSITY OF TRIAL BY JURY.

H. J. R. No. 39.]

HOUSE JOINT RESOLUTION.

House Joint Resolution proposing an Amendment to Section 15, of Article 1, of the Constitution of Texas, and providing that the Legislature may authorize the temporary commitment of mentally ill persons, not charged with a criminal offense, for treatment and/or observation without the necessity of a trial by jury.

*Be it resolved by the Legislature of the State of Texas:*

SECTION 1. That Section 15, of Article 1, of the Constitution of the State of Texas be so amended as to hereafter read as follows:

"Sec. 15. The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the Legislature may provide for the temporary commitment, for observation and/or treatment, of mentally ill per-

**58TH LEGISLATURE—REGULAR SESSION**

**Sec. 3.** The Governor of the State of Texas shall issue the necessary proclamation for the election and this Amendment shall be published in the manner and for the length of time as required by the Constitution and laws of this state.

Passed the Senate, April 1, 1963: Yeas 22, Nays 7; May 24, 1963, Senate concurred in House amendments: Yeas 23, Nays 7; adopted by the House on May 15, 1963, with amendments: Yeas 109, Nays 27.  
Filed without Governor's signature May 30, 1963.

**PROPOSED CONSTITUTIONAL AMENDMENT—PERMANENT  
SCHOOL FUND—TRANSFER TO AVAILABLE  
SCHOOL FUND**

**S. J. R. No. 6**

*Proposing an amendment to Section 5 of Article VII of the Constitution of the State of Texas so as to remove the authorization to transfer not exceeding one per cent annually of the total value of the permanent school fund to the available school fund.*

*Be it resolved by the Legislature of the State of Texas:*

**Section 1.** Section 5 of Article VII of the Constitution of the State of Texas is amended to read as follows:

"Section 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund. The available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same, or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law."

**Sec. 2.** The foregoing Constitutional Amendment shall be submitted to a vote of the qualified electors at an election to be held on the first Tuesday after the first Monday in November, 1964, at which election all ballots shall have printed thereon the following:

"FOR the Constitutional Amendment to remove the authorization to transfer not exceeding one per cent annually of the total value of the permanent school fund to the available school fund."

"AGAINST the Constitutional Amendment to remove the authorization to transfer not exceeding one per cent annually of the total value of the permanent school fund to the available school fund."

**Sec. 3.** The Governor of Texas shall issue the necessary proclamation for the election and this amendment shall be published in the manner and for the length of time as required by the Constitution and laws of this state.

Passed the Senate, February 13, 1963: Yeas 29, Nays 0; passed the House, May 15, 1963: Yeas 113, Nays 27.  
Filed without Governor's signature May 30, 1963.

## 68TH LEGISLATURE--REGULAR SESSION

**SECTION 2.** This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 8, 1983. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize taxing units to exempt from taxation property of certain veterans' and fraternal organizations."

Passed by the Senate on March 23, 1983: Yeas 27, Nays 4; Senate concurred in House amendments on May 27, 1983: Yeas 31, Nays 0; passed by the House, with amendments, on May 25, 1983: Yeas 137, Nays 4, one present not voting.

Filed without signature.

Filed with the Secretary of State, June 14, 1983.

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### PROPOSED CONSTITUTIONAL AMENDMENTS--SCHOOLS AND SCHOOL DISTRICTS--BONDS--GUARANTEE-- PERMANENT SCHOOL FUND

S. J. R. No. 12

#### SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize use of the permanent school fund to guarantee school bonds.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

**SECTION 1.** That Article VII, Section 5, of the Texas Constitution be amended to read as follows:

"Section 5. (a) The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund. The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, [And] no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same, or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available

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PROPOSED CONSTITUTIONAL AMENDMENTS

school fund herein provided shall be distributed to the several  
counties according to their scholastic population and applied in  
such manner as may be provided by law.

"(b) The legislature by law may provide for using the  
permanent school fund and the income from the permanent school fund  
to guarantee bonds issued by school districts.

"(c) The legislature may appropriate part of the available  
school fund for administration of the permanent school fund or of a  
bond guarantee program established under this section."

SECTION 2. This proposed constitutional amendment shall be  
submitted to the voters at an election to be held November 8, 1983.  
The ballot shall be printed to provide for voting for or against  
the proposition: "The constitutional amendment authorizing use of  
the permanent school fund to guarantee bonds issued by school  
districts."

Passed by the Senate on April 21, 1983: Yeas 31, Nays 0; passed by the House on  
April 28, 1983: Yeas 123, Nays 13, one present not voting.

Approved May 4, 1983.

Filed with the Secretary of State, May 5, 1983.

PROPOSED CONSTITUTIONAL AMENDMENTS—BOARD OF  
PARDONS AND PAROLES—STATUTORY AGENCY

S. J. R. No. 13

SENATE JOINT RESOLUTION

proposing a constitutional amendment to establish the Board of  
Pardons and Paroles as a statutory agency and to give the board the  
power to revoke paroles.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article IV, Section 11, of the Texas  
Constitution be amended to read as follows:

"Section 11. The Legislature shall by law establish a Board  
of Pardons and Paroles and shall require it to keep record of its

Additions in text indicated by underline; deletions by [strikeouts]



## **APPENDIX D**

### **Texas School Finance Chronology (Adopted from Plaintiff-Intervenors Exhibit No. 235)**

- 1827      The Mexican state of Coahuila y Texas provides land grants for education purposes to ayuntamientos (municipalities); however, few schools appear.
- 1833      Coahuila y Texas renews its efforts to finance schools through land grants and municipal funds, but there is no movement for public schools.
- 1836      Texas gains its independence from Mexico. Among the charges against Mexico in the Declaration of Independence is that it has failed to establish a system of public education. The Constitution of 1836 contains a charge to Congress to establish "a general system of Education."
- 1837      San Antonio, Victoria and Gonzales are allowed to incorporate and are given the duty to provide schools. Austin is accorded the same privileges and responsibilities in 1839.
- 1839      The Education Act of 1839 is passed under President Mirabeau B. Lamar, providing land grants for support of public "academies." The first

education act in Texas also serves as a model for federal aid as seen in the Morrill Act of 1862.

Act of January 26, 1839, 1838 Republic of Texas Laws, 3rd Congress, 2 H. Gammel, Laws of Texas 134 (1989).

- 1840      The Education Act of 1840 expands land grants to four square leagues (17,728 acres) of land for each county to be used to support education. These grants form the basis of County Permanent School Funds still held by most counties.
- 1845      Texas obtains statehood. The Texas Constitution of 1845 provides for establishment of free schools and for state taxes to support education. These grants form the basis of County Permanent School Funds still held by most counties.
- Tex. Const. Art. X (1845)
- 1846      Galveston and Corpus Christi obtain from the Legislature the privilege of voting taxes to support public free schools. The tax plebiscite does not pass in Corpus Christi, and the tax is abandoned in Galveston in 1848. A policy is set that allows towns to control their own schools and to vote local taxation for school purposes.
- Law of April 2, 1846, 1846 Tex. Gen. Laws 30, 2 H. Gammel, Laws of Texas 1336 (1898).
- 1850      Texas receives \$10 million from the U.S. Congress in the Compromise of 1850. After all state

indebtedness is satisfied, \$2 million are left, and public sentiment leans toward educational uses for the funds.

- 1853 Education becomes a political issue, forming a plank in the platform of gubernatorial candidate Elisha M. Pease.
- 1853 The first genuine free public school system in Texas is organized at San Antonio. It operates basically from local taxes and from lands given to the town under Mexican rule.
- 1854 Under Governor Pease, the School Law of 1854 is passed. It provides a permanent endowment of \$2 million (realized from the Compromise of 1850) for public education, with earnings to be distributed on a per capita basis. Districting of counties is also provided for.
- Law of January 31, 1854, Ch. 18, §§1 and 2, 1854  
Tex. Gen. Laws 17, 3 H. Gammel, Laws of Texas 1461  
(1854)
- 1854 Comal County organizes a district under the School Law of 1854. It is the only district to build a schoolhouse from local funds under this law. A model school is run from per capita income and local property taxes (after 1858).



- 1856      Districting of counties is discarded, and groups of citizens are allowed to set up schools, employ teachers, and draw upon state per capita funds. An individual parent can send an offspring to a private school and draw the per capita apportionment, thus providing an early voucher system.
- 1861      The Permanent School Fund is affected seriously by loan defaults from railroads and depreciated Confederate currency. The fund totals \$2,592,533 at the outbreak of the Civil War. The fund eventually is transferred to the military board to be used in the war effort. By 1865, practically nothing is left.
- 1866      The Constitution of 1866 provides for large tracts of land for a school endowment, for property taxes to be levied by the State Legislature for school purposes, and for local property taxes for the education of indigent children. The constitution provides that taxes collected from blacks are to be used for the education of blacks. The constitution is later nullified by the Congress.
- Tex. Const. Art. X (1866)
- 1869      The Constitution of 1869 is adopted under Radical Republican governance. It provides for (1) proceeds from all land sales to go to the Permanent School Fund, (2) permissive school attendance for children between ages 6 and 8, (3) compulsory attendance for children 8 to 14, (4) one-fourth of the general revenue to go to public education, (5) a poll tax to support education, (6) a state ad valorem tax for the support of schools, (7) a strong central education agency,

(8) districting of counties, and (9) local taxation to provide for schoolhouses and a 10-month school year in each school district.

Tex. Const. Art. VII (1869)

1871      The School Law of 1871 implements the constitutional provisions, including a state-mandated local property tax of \$1 per \$100. A taxpayer revolt ensues. From 1871 to 1873, collections run less than 20 percent of levies.

Law of April 24, 1871, Ch. 54, §5, 1871 Tex. Gen. Laws 57, 6 H. Gammel, Laws of Texas 959 (1871)

1873      A new school law reverses most of the Radical Republican features as the Democrats regain control of the Legislature.

Law of April 30, 1873, Ch. 63, 1873 Tex. Gen. Laws 95, 7 H. Gammel, Laws of Texas 547 (1873)

1875      Municipal school districts are given blanket authority to vote local taxation for school purposes. Incorporated cities not forming independent school districts, as well as unincorporated areas, are not accorded this authority.

Law of March 15, 1875, Ch. C111, 1875 Tex. Gen. Laws 161, 8 H. Gammel, Laws of Texas 533 (1875)

1875      A Constitutional Convention convenes with strong sentiment for retrenchment, economy, and disestablishment of centralized educational authority.

1876        The Constitution of 1876 is adopted, providing for (1) a perpetual endowment consisting of all funds previously allocated to education, one-half the public lands contained in railroad and internal improvement surveys and one-half the remaining public domain; (2) annual apportionment of revenue from the Permanent School Fund and designated taxes on a per capita basis; (3) a poll tax of \$1 per male for education; (4) a maximum of one-fourth of the general revenue to go for education; (5) local taxation in municipal school districts; (6) decentralized state authority; and (7) the community system of schools rather than districts (a peculiar system in which schools were re-formed each year by parents).

Tex. Const. Art. VII (1876)

1879        Governor O. M. Roberts determines to balance the state budget and vetoes appropriations bills until education appropriations are cut back, causing fiscal distress in the schools.

1879        Municipal school districts are limited to 50 cents per \$100 in school taxes; no other schools have local taxing authority.

1879        The Four Section Settler Act is passed, providing for the sale of school lands at \$1 per acre in an effort to beef up the Permanent School Fund. The Fifty Cent Law provides for the sale of public domain at 50 cents per acre, with half the revenue going to the school fund.

Law of February 20, 1879, Ch. 13 §17, 1879 Tex. Gen. Laws 11, 8 H. Gammel, Laws of Texas 1311 (1879)

- 1881      Unincorporated towns and villages with populations of more than 200 are permitted to incorporate for school purposes.

Law of April 6, 1881, Ch. C11 §1, 1881 Tex. Gen. Laws 114, 9 H. Gammel, Laws of Texas 206 (1881) (amending Ch. 11, Title 17 of the Revised Civil Statutes by the addition of Art. 541(a)-(f))

- 1883      Land sales are acknowledged as unsuccessful; under Governor John Ireland, the Fifty Cent Law is repealed and the Four Section Settler Act is modified. Attention turns to local taxation for support of schools.

- 1883      A constitutional amendment is approved, providing for (1) one-fourth of the revenue from state occupation taxes to go to education, (2) a poll tax on all males ages 21 to 60, (3) a state ad valorem tax for education not to exceed 20 cents per \$100, (4) local taxation in common school districts up to 20 cents per \$100, provided the tax is approved by two-thirds of the property owners in the district, (5) an elective state superintendent, (6) minimum school term lengths, and (7) districting of some counties.

Tex. Const. Art. VII §3 (1883)

- 1901      The State Board of Education (comprised of the Governor, state comptroller, and secretary of state) is permitted to invest the Permanent School Fund in building bonds of independent school districts. Many districts begin to change status from common to independent. School building programs proliferate rapidly.

Acts of 1901 Tex. Gen. Laws 312, Tex. Rev. Civ. Stat. art. 3891(a)

- 1903      A state textbook selection board is established; financing of textbooks is still a responsibility of individual parents.
- Act of May 15, 1903, Ch. 12, 1903 Tex. Gen. Laws 22
- 1904      Local taxation for school purposes is existent in 90 percent of the 381 independent school districts but still virtually nonexistent in rural schools.
- 1905      A stronger tax rendition law is passed, providing for more complete rendition of property for tax purposes.
- 1907      Personal property is added to the tax rolls.
- Act of May 16, 1907, Ch. 11, 1907 Tex. Gen. Laws 459, an act amending Ch. 3, art. 104, art. 5123 and 5124 of the Rev. Civ. Stat. and adding thereto art. 5124 a-g.
- 1908      A constitutional amendment is passed that increases the tax ceiling of common school districts from 20 cents per \$100 to 50 cents per \$100, with the necessary two-thirds vote of property owners reduced to a simple majority vote. Common school districts are permitted to vote bonded indebtedness.
- Tex. Const. Art. VII §3

- 1909      The State Board of Education is permitted to invest the Permanent School Fund in common school district building bonds, which accelerates school-house construction in rural areas.
- Acts of 1909, 1st C. 5, p. 216 §2
- 1911      Under Governor O. B. Colquitt, a law is passed establishing county school boards and granting them permission to establish rural high school districts and to consolidate common districts for this effort. The law is permissive, not mandatory, but some construction aid is furnished to encourage establishment of rural high schools.
- Acts of 1911, Reg. 5. p. 34
- 1911      A law is passed permitting local school boards to expend state-derived revenues for textbooks.
- Acts of 1911, 1st C.S. p. 88 §1
- 1914      Rural high school aid is a political issue and forms a plank in the platform of gubernatorial candidate James E. Ferguson.
- 1915      Rural high school aid is expanded under Governor Ferguson; this aid proliferates the number of rural high school districts.
- 1915      The Legislature appropriates \$1 million for the biennium for special rural school aid, the first

equalization funds in Texas. In order to qualify for the aid, a rural common district must tax at its legal limit of 50 cents per \$100; in effect, the funds are a bonus for local tax effort.

Acts of 1915, 1st C.S. p. 22 §6

1915      A law is passed permitting local school boards to expend local tax monies for textbooks.

Acts of 1915, Reg. S. p. 206 §1

1918      A constitutional amendment legitimizes the rural school aid act of 1915.

Tex. Const. Art. VII §3

1918      A constitutional amendment is passed that provides for free textbooks in the public schools and a state tax to finance them. The state ad valorem tax limit is increased from 20 cents per \$100 to 35 cents per \$100, with the additional 15 cents per \$100 earmarked for textbooks. The amendment also provides for special legislative appropriations; although the intent is to insure adequate funds for textbooks, special appropriations for other educational uses are not prohibited.

Tex. Const. Art. VII §3

1919      Under Governor William P. Hobby, the first special legislative appropriation for financing schools is passed. The practice, designed to assist schools through a brief depression, is continued each session to the present day.

Acts of 1919, Reg. S. p. 135 §1

- 1920 Leonard P. Ayres of the University of Texas publishes his index ranking of the 48 states, revealing that Texas ranks thirty-ninth in overall fiscal effort for education. Many citizens call for a study of the state education system by experts.
- 1923 The Texas Educational Survey is carried out under the leadership of George A. Works of Cornell University. The survey's eight-volume report (1925) includes many recommendations for the improvement of school financing, most of which are ignored.
- 1925 Transportation aid is allotted to schools for the first time.
- 1929 The State Board of Education (Governor, comptroller, and secretary of state) is disbanded through constitutional amendment. In its place the Legislature establishes a nine-member board appointed by the Governor; the new board shares the responsibilities with the elective state superintendent.
- Acts fo 1929, 41st Leg., 1st C.S. p. 86 Ch. 39  
Amended by Acts 1976, 62nd Leg. 1st C. 5. p. 25,  
Ch. 5 §1 eff. June 15, 1971  
Tex. Educ. Code Ann. §11.21 (Vernon 1972)
- 1937 The rural school aid act of 1915 is rewritten, re-financed, and renamed the Equalization Fund. This special fund for rural schools also provides



salary aid and transportation aid to rural districts as well as high school tuition for those students residing in districts without high schools. Local tax efforts (on two tiers) are still required in order to qualify for aid.

Acts of 1937, 45th Leg. p. 1259

- 1938      The State Board of Education issues its Report of the Results of the Texas Statewide School Adequacy Survey, the result of a three-year study underwritten by the Works Progress Administration. This massive report proposes the most radical and detailed school district consolidation plan ever formulated in the history of the state. The plan is resisted by conservative elements and is never implemented on a systematic basis.
- 1947      The Gilmer-Aikin Committee is formed by the Legislature during the administration of Beauford Jester; it is charged with the responsibility for designing a new system of financing the public schools of the state.
- 1948      The Gilmer-Aikin Committee publishes To Have What We Must, setting forth its proposal for a Minimum Foundation Program.
- 1949      The Gilmer-Aikin Laws are passed by the 51st Legislature. Senate Bill 115 reorganizes the state administration, establishing the elective State Board of Education (Texas Education Agency), providing for a commissioner appointed by the

Board, and creating the State Department of Education (commonly referred to as TEA). Senate Bill 116 establishes the Minimum Foundation Program, with a chargeback rate ultimately based on 80 percent funding of the minimum program by the state. Senate Bill 117 establishes the county economic index computations that determine local district chargebacks. Local districts are free to enrich their programs in keeping with their local abilities and willingness with certain tax limitations.

Acts of 1949, 51st Leg., p. 1056.  
Acts of 1949, 51st Leg., p. 625.

- 1965 Governor John Connally appoints the Governor's Committee on Public School Education, charging it with development of a long-range plan to bring Texas into national leadership in education. It is the first official body in the history of the state to address itself to the issue of inequities in public school finance.
- 1968 The Governor's Committee publishes its report, The Challenge and the Chance, which recommends sweeping changes in education. In regard to school finance, the committee recommends massive injections of state funds through a broader Minimum Foundation Program and widespread consolidation of school districts. Most of the committee's recommendations are ignored by the Texas Legislature in 1969 and 1971.
- 1971 On December 23, the federal district court in San Antonio rules the Texas system of school finance unconstitutional in the case of Rodriguez v. San Antonio ISD. It is held that the system violates

the equal protection clause of the Fourteenth Amendment because of its excessive reliance upon disparate local property tax wealth. The state is granted two years to devise a new system based upon no-wealth-discrimination principles.

1972        On appeal, arguments are heard in the U.S. Supreme Court in the Rodriguez case.

1972        The most comprehensive plan for no-wealth-discrimination school finance reform is formulated by the Joint Interim Senate Committee to Study School Finance. The preferred approach is a district power equalization (DPE) model.

1973        The U.S. Supreme Court reverses the Rodriguez decision on the principal basis that education is not a fundamental right protected by the Fourteenth Amendment. The Texas Minimum Foundation Program is constitutional, but Texas legislators are given strong encouragement to develop a more equitable system. A number of study groups are appointed to prepare school finance recommendations for the 64th Legislature.

1975        The Texas Legislature passes House Bill 1126, hastily constructed in the waning hours of the session. Significant changes in the state's financing structure are (1) increased funding of the renamed Foundation School Program, (2) equalization aid to certain property-poor school districts, and (3) abandonment of the county

economic index method of determining local fund assignments, with a shift to actual market value of property as a rationale.

Acts of 1975, 64th Leg. p. 877, Ch. 334, §1 amending Ch. 16, Texas Educational Code, V.T.C.A. Education Code, §16.001 to 16.304

1977 In a special session in July, the 65th Legislature passes Senate Bill 1, which offers a few alterations to the financing structure: (1) increased FSP aid, (2) a lower local fund assignment rate in two different configurations, (3) equalization aid in two different configurations, and (4) inclusion of special and vocational education costs in the FSP instead of as categorical aid.

Acts of 1977, 65th Leg. 1st C.S. p. 11

1979 The 66th Legislature passes Senate Bill 350, which (1) expands FSP aid again, (2) adjusts local fund assignment rates again to use index values, (3) revamps transportation aid through the use of linear density formulas, (4) establishes personnel unit floors for necessary small districts, (5) adds a fast growth adjustment, (6) adds a minimum aid adjustment, (7) provides for support services for small school districts for accreditation purposes, and (8) adjusts state equalization aid again to a single formula. In addition, House Bill 1060 enables the Tax Relief Amendments of 1978, and Senate Bill 621 establishes central tax appraisal districts for purposes of property tax appraisals.

Acts of 1979, 66th Leg. Ch. 602, p. 1300 amending V.T.C.A. Education Code §16.001

- 1981      The 67th Legislature adds approximately \$1.5 billion to the FSP, with the largest increase coming in teacher pay raises, maintenance and operation allotments, and state equalization aid. The local fund assignment rate is lowered, transportation aid is increased, the minimum aid feature of th FSP is retained, and bilingual education support is expanded. Reimbursement for tax revenue losses due to mandated exemptions is dropped, and Governor Bill Clements vetoes the fast growth adjustment portion of state aid.
- Acts of 1981, 67th Leg. pg. 2538
- 1981      In a special session, the Legislature passes House Bill 30, which attempts to clarify previous property tax legislation, postpones for two years mandatory school district participation in central appraisal districts, and adds several features to the Property Tax Code, including (1) stiffer penalties and interest on delinquent taxes, (2) less stringent rules governing tax rollback elections, (3) revised "truth-in-taxation" provisions, and (4) mandatory reappraisal property at least every four years.
- Acts of 1981, 67th Leg., 1st C.S. p. 117
- 1981      In November, a constitutional amendment is passed allowing local taxing jurisdictions to grant additional homestead exemptions (over those authorized in 1978) on a local option basis.
- 1983      The 68th Legislature is confronted by fiscal constraints caused by the leveling of state revenues, particularly from taxes on oil and gas and the state general sales and use tax. Legislators address the unfamiliar dilemma of either raising

state taxes or curbing state spending increases by providing only enough funds for public education to carry on current law. The local fund assignment rate is lowered to 11 cents per \$100 of equalized taxable value, and the Legislature lowers its contribution rate to the Teacher Retirement System from 8.5 percent to 7.1 percent of gross earnings of system participants (with a reversion clause for the succeeding biennium).

Acts of 1983, 68th Leg. p. 1358

- 1983 Governor Mark White appoints the Select Committee on Public Education to be chaired by Dallas computer magnate H. Ross Perot. The committee is to study the financing of education with a view toward reform of the system in a special session of the Legislature.
- 1984 The Select Committee on Public Education reports its findings and recommendations, including suggestions pertaining to (1) an appointed State Board of Education, (2) a more equalized school finance structure, (3) increased teacher salaries, (4) a career ladder program for teachers based partially on performance, (5) class size maximums, (6) restrictions on extracurricular activities, and (7) numerous other matters including new programs.
- 1984 In a special session in June, the 68th Legislature enacts House Bill 72, a comprehensive law touching nearly all aspects of public education. The state system of distribution of aid is moved from a weighted personnel unit approach to a weighted pupil (ADA) method. An overall increase in state aid of approximately 20 percent is granted, with emphasis on equalization features such as (1)

increased local fund assignment rate (a statewide local share of the FSP of 30 percent, later 33 percent); (2) increased equalization aid for property-poor school districts (with an effort factor added); and (3) elimination of hold harmless provisions in local share computation. In addition, the Legislature increases the state minimum salaries for teachers in a new step schedule and removes from the state salary index schedule all paraprofessionals and all minimum salary designations for counselors, supervisors, administrators, and other support staff. A career ladder program for classroom teachers is enacted.

1984      Among the major new programs to be funded are (1) prekindergarten classes for disadvantaged four-year-olds, beginning in 1985-86; (2) class size maximums of 22 in grades K-2 (beginning in 1985-86) and grades 3-4 (beginning in 1988-89); and (3) movement of some Teacher Retirement System contributions from state responsibility to local responsibility.

1984      To fund the increases in state aid resulting from House Bill 72, the Legislature raises state taxes sufficient to generate \$4.9 billion in additional revenue over a three-year period. The principal increases revolve around the state general sales and use tax, which is increased from 4 percent to 4.125 percent, but many exemptions to the tax are removed. Numerous other taxes are increased, and the value of bank stock is moved from the local ad valorem tax to a state franchise tax, effective January 01, 1985.

1985      The 69th Legislature makes few changes to the reform act of 1984. State funds for education

of gifted and talented students are provided as a special allotment under the FSP instead of as categorical aid.

1986

In two special sessions, the Texas Legislature tackles state budget problems resulting from shrinking state revenues. A combination of budget reductions and a temporary state sales tax increase result, with elementary and secondary education monies left relatively unscathed. State reimbursement for this mandated sick leave program is eliminated, and community education funds are reduced.





C 8353

FILED  
IN SUPREME COURT  
OF TEXAS

NO. C-8353

FEB 27 1989

IN THE

MARY M. WAKEFIELD, Clerk  
By \_\_\_\_\_ SUPREME COURT OF TEXAS  
Deputy

EDGEWOOD INDEPENDENT SCHOOL DISTRICT, et al.,

Petitioners,

v.

WILLIAM N. KIRBY, et al.,

Respondents.

RESPONDENT IRVING INDEPENDENT SCHOOL DISTRICT'S  
BRIEF IN RESPONSE TO PETITIONERS' AND  
PETITIONER-INTERVENORS' APPLICATIONS FOR WRIT OF ERROR

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DISTRICT

## LIST OF PARTIES

In order that the members of the court may determine disqualification or recusal pursuant to the Texas Rules of Appellate Procedure, Rule 131(a), Respondent certifies that the following is a complete list of all parties to this case:

### PLAINTIFFS AND APPELLEES BELOW, PETITIONERS HEREIN

EDGEWOOD INDEPENDENT SCHOOL DISTRICT  
SOCORRO INDEPENDENT SCHOOL DISTRICT  
EAGLE PASS INDEPENDENT SCHOOL DISTRICT  
BROWNSVILLE INDEPENDENT SCHOOL DISTRICT  
SAN ELIZARIO INDEPENDENT SCHOOL DISTRICT  
SOUTH SAN ANTONIO INDEPENDENT SCHOOL DISTRICT  
LA VEGA INDEPENDENT SCHOOL DISTRICT  
PHARR-SAN JUAN-ALAMO INDEPENDENT SCHOOL DISTRICT  
KENEDY INDEPENDENT SCHOOL DISTRICT  
MILANO INDEPENDENT SCHOOL DISTRICT  
HARLANDALE INDEPENDENT SCHOOL DISTRICT  
NORTH FOREST INDEPENDENT SCHOOL DISTRICT  
ANICETO ALONZO, on his own behalf and as next friend of SANTOS  
ALONZO, HERMELINDA ALONZO and JESUS ALONZO  
SHIRLEY ANDERSON, on her own behalf and as next friend of  
DERRICK PRICE  
JUANITA ARREDONDO, on her own behalf and as next friend of  
AUGUSTIN ARREDONDO, JR., NORA ARREDONDO and SYLVIA ARREDONDO  
MARY CANTU, on her own behalf and as next friend of JOSE CANTU,  
JESUS CANTU and TONATIUH CANTU  
JOSEFINA CASTILLO, on her own behalf and as next friend of MARIA  
CORENO  
EVA W. DELGADO, on her own behalf and as next friend of  
OMAR DELGADO  
RAMONA DIAZ, on her own behalf and as next friend of MANUEL DIAZ  
and NORMA DIAZ  
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NICOLAS GARCIA, on his own behalf and as next friend of NICOLAS  
GARCIA, JR., RODOLFO GARCIA, ROLANDO GARCIA, GRACIELA GARCIA,  
CRISELDA GARCIA, and RIGOBERTO GARCIA  
RAQUEL GARCIA, on her own behalf and as next friend of FRANK  
GARCIA, JR., ROBERTO GARCIA, RICARDO GARCIA, ROXANNE GARCIA  
and RENE GARCIA  
HERMELINDA C. GONZALEZ, on her own behalf and as next friend of  
ANGELICA MARIA GONZALEZ  
RICARDO J. MOLINA, on his own behalf and as next friend of JOB  
FERNANDO MOLINA  
OPAL MAYO, on her own behalf and as next friend of JOHN MAYO,  
SCOTT MAYO and REBECCA MAYO  
HILDA S. ORTIZ, on her own behalf and as next friend of JUAN  
GABRIEL ORTIZ

RUDY C. ORTIZ, on his own behalf and as next friend of MICHELLE ORTIZ, ERIC ORTIZ and ELIZABETH ORTIZ  
ESTELA PADILLA and CARLOS PADILLA, on their own behalves and as next friend of GABRIEL PADILLA  
ADOLFO PATINO, on his own behalf and as next friend of ADOLFO PATINO, JR.  
ANTONIO Y. PINA, on his own behalf and as next friend of ANTONIO PINA, JR., ALMA MIA PINA and ANA PINA  
REYMUNDO PEREZ, on his own behalf and as next friend of RUBEN PEREZ, REYMUNDO PEREZ, JR., MONICA PEREZ, RAQUEL PEREZ, ROGELIO PEREZ and RICARDO PEREZ  
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LORENZO G. SOLIS, on his own behalf and as next friend of JAVIER SOLIS and CYNTHIA SOLIS  
JOSE A. VILLALON, on his own behalf and as next friend of RUBEN VILLALON, RENE VILLALON, MARIA CHRISTINA VILLALON and JAIME VILLALON

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BLANKET INDEPENDENT SCHOOL DISTRICT  
BURLESON INDEPENDENT SCHOOL DISTRICT  
CANUTILLO INDEPENDENT SCHOOL DISTRICT  
CHILTON INDEPENDENT SCHOOL DISTRICT  
COPPERAS COVE INDEPENDENT SCHOOL DISTRICT  
COVINGTON INDEPENDENT SCHOOL DISTRICT  
CRAWFORD INDEPENDENT SCHOOL DISTRICT  
CRYSTAL CITY INDEPENDENT SCHOOL DISTRICT  
EARLY INDEPENDENT SCHOOL DISTRICT  
EDCOUCH-ELSA INDEPENDENT SCHOOL DISTRICT  
EVANT INDEPENDENT SCHOOL DISTRICT  
FABENS INDEPENDENT SCHOOL DISTRICT  
FARWELL INDEPENDENT SCHOOL DISTRICT  
GODLEY INDEPENDENT SCHOOL DISTRICT  
GOLDTHWAITE INDEPENDENT SCHOOL DISTRICT  
GRANDVIEW INDEPENDENT SCHOOL DISTRICT  
HICO INDEPENDENT SCHOOL DISTRICT  
JIM HOGG COUNTY INDEPENDENT SCHOOL DISTRICT  
HUTTO INDEPENDENT SCHOOL DISTRICT  
JARRELL INDEPENDENT SCHOOL DISTRICT  
JONESBORO INDEPENDENT SCHOOL DISTRICT  
KARNES CITY INDEPENDENT SCHOOL DISTRICT  
LA FERIA INDEPENDENT SCHOOL DISTRICT  
LA JOYA INDEPENDENT SCHOOL DISTRICT  
LAMPASAS INDEPENDENT SCHOOL DISTRICT  
LASARA INDEPENDENT SCHOOL DISTRICT  
LOCKHART INDEPENDENT SCHOOL DISTRICT  
LOS FRESNOS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT  
LYFORD INDEPENDENT SCHOOL DISTRICT  
LYTLE INDEPENDENT SCHOOL DISTRICT

MART INDEPENDENT SCHOOL DISTRICT  
MERCEDES INDEPENDENT SCHOOL DISTRICT  
MERIDIAN INDEPENDENT SCHOOL DISTRICT  
MISSION INDEPENDENT SCHOOL DISTRICT  
NAVASOTA INDEPENDENT SCHOOL DISTRICT  
ODEM-EDROY INDEPENDENT SCHOOL DISTRICT  
PALMER INDEPENDENT SCHOOL DISTRICT  
PRINCETON INDEPENDENT SCHOOL DISTRICT  
PROGRESSO INDEPENDENT SCHOOL DISTRICT  
RIO GRANDE CITY INDEPENDENT SCHOOL DISTRICT  
ROMA INDEPENDENT SCHOOL DISTRICT  
ROSEBUD-LOTT INDEPENDENT SCHOOL DISTRICT  
SAN ANTONIO INDEPENDENT SCHOOL DISTRICT  
SAN SABA INDEPENDENT SCHOOL DISTRICT  
SANTA MARIA INDEPENDENT SCHOOL DISTRICT  
SANTA ROSA INDEPENDENT SCHOOL DISTRICT  
SHALLOWATER INDEPENDENT SCHOOL DISTRICT  
SOUTHSIDE INDEPENDENT SCHOOL DISTRICT  
STAR INDEPENDENT SCHOOL DISTRICT  
STOCKDALE INDEPENDENT SCHOOL DISTRICT  
TRENTON INDEPENDENT SCHOOL DISTRICT  
VENUS INDEPENDENT SCHOOL DISTRICT  
WEATHERFORD INDEPENDENT SCHOOL DISTRICT  
YSLETA INDEPENDENT SCHOOL DISTRICT  
CONNIE DEMARSE  
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DEFENDANTS AND APPELLANTS BELOW, RESPONDENTS HEREIN

WILLIAM N. KIRBY, INTERIM TEXAS COMMISSIONER OF EDUCATION  
THE TEXAS STATE BOARD OF EDUCATION  
MARK WHITE, GOVERNOR OF THE STATE OF TEXAS  
ROBERT BULLOCK, COMPTROLLER OF THE STATE OF TEXAS  
THE STATE OF TEXAS  
JIM MATTOX, ATTORNEY GENERAL OF THE STATE OF TEXAS

DEFENDANT-INTERVENORS AND APPELLANTS BELOW, RESPONDENTS HEREIN

ANDREWS INDEPENDENT SCHOOL DISTRICT  
ARLINGTON INDEPENDENT SCHOOL DISTRICT  
AUSTWELL TIVOLI INDEPENDENT SCHOOL DISTRICT  
BECKVILLE INDEPENDENT SCHOOL DISTRICT  
CARROLLTON-FARMERS BRANCH INDEPENDENT SCHOOL DISTRICT  
CARTHAGE INDEPENDENT SCHOOL DISTRICT  
CLEBURNE INDEPENDENT SCHOOL DISTRICT  
COPPELL INDEPENDENT SCHOOL DISTRICT  
CROWLEY INDEPENDENT SCHOOL DISTRICT  
DESOTO INDEPENDENT SCHOOL DISTRICT

DUNCANVILLE INDEPENDENT SCHOOL DISTRICT  
EAGLE MOUNTAIN-SAGINAW INDEPENDENT SCHOOL DISTRICT  
EANES INDEPENDENT SCHOOL DISTRICT  
EUSTACE INDEPENDENT SCHOOL DISTRICT  
GLASSCOCK INDEPENDENT SCHOOL DISTRICT  
GRADY INDEPENDENT SCHOOL DISTRICT  
GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT  
GRAPEVINE-COLLEYVILLE INDEPENDENT SCHOOL DISTRICT  
HARDIN JEFFERSON INDEPENDENT SCHOOL DISTRICT  
HAWKINS INDEPENDENT SCHOOL DISTRICT  
HIGHLAND PARK INDEPENDENT SCHOOL DISTRICT  
HURST EULESS BEDFORD INDEPENDENT SCHOOL DISTRICT  
IRAAN-SHEFFIELD INDEPENDENT SCHOOL DISTRICT  
IRVING INDEPENDENT SCHOOL DISTRICT  
KLONDIKE INDEPENDENT SCHOOL DISTRICT  
LAGO VISTA INDEPENDENT SCHOOL DISTRICT  
LAKE TRAVIS INDEPENDENT SCHOOL DISTRICT  
LANCASTER INDEPENDENT SCHOOL DISTRICT  
LONGVIEW INDEPENDENT SCHOOL DISTRICT  
MANSFIELD INDEPENDENT SCHOOL DISTRICT  
MCMULLEN INDEPENDENT SCHOOL DISTRICT  
MIAMI INDEPENDENT SCHOOL DISTRICT  
MIDWAY INDEPENDENT SCHOOL DISTRICT  
MARANDO CITY INDEPENDENT SCHOOL DISTRICT  
NORTHWEST INDEPENDENT SCHOOL DISTRICT  
PINETREE INDEPENDENT SCHOOL DISTRICT  
PLANO INDEPENDENT SCHOOL DISTRICT  
PROSPER INDEPENDENT SCHOOL DISTRICT  
QUITMAN INDEPENDENT SCHOOL DISTRICT  
RAINS INDEPENDENT SCHOOL DISTRICT  
RANKIN INDEPENDENT SCHOOL DISTRICT  
RICHARDSON INDEPENDENT SCHOOL DISTRICT  
RIVIERA INDEPENDENT SCHOOL DISTRICT  
ROCKDALE INDEPENDENT SCHOOL DISTRICT  
SHELDON INDEPENDENT SCHOOL DISTRICT  
STANTON INDEPENDENT SCHOOL DISTRICT  
SUNNYVALE INDEPENDENT SCHOOL DISTRICT  
WILLIS INDEPENDENT SCHOOL DISTRICT  
WINK-LOVING INDEPENDENT SCHOOL DISTRICT

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NO. C-8353

IN THE

SUPREME COURT OF TEXAS

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EDGEWOOD INDEPENDENT SCHOOL DISTRICT, et al.,

Petitioners,

v.

WILLIAM N. KIRBY, et al.,

Respondents.

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BRIEF OF RESPONDENT

IRVING INDEPENDENT SCHOOL DISTRICT

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TO THE HONORABLE SUPREME COURT OF TEXAS:

Respondent, IRVING INDEPENDENT SCHOOL DISTRICT ("IISD"), Appellant in Cause No. 3-87-190 CV in the Court of Appeals for the Third Supreme Judicial District of Texas, at Austin, Texas, and Defendant-Intervenor in Cause No. 362,516 before the 250th Judicial District Court, Travis County, Texas, respectfully submits this brief in response to Petitioners' and Petitioner-Intervenors' Applications for Writ of Error. For ease of

reference, Plaintiffs and Plaintiff-Intervenors in the district court, Appellees in the court of appeals, and Petitioners herein, will be referred to collectively as "Petitioners," and Defendants and Defendant-Intervenors in the district court, Appellants in the court of appeals, and Respondents herein, will be referred to collectively as "Respondents," unless noted otherwise.

This brief is submitted in adherence to the fifty (50) page maximum length requirement set forth in Texas Rule of Appellate Procedure 136(e). Because of the number and nature of Petitioners' Points of Error, and the necessity for a full and complete discussion of same, Respondent IISD will brief only Reply Point No. 3. Respondent IISD adopts the position and Briefs submitted by the other Respondents in this case with respect to the remaining Reply Points.

Specifically, Respondent IISD adopts the position and Brief of Respondents State of Texas, et al., with respect to Reply Point No. 1, Respondents Eanes Independent School District, et al., with respect to Reply Point No. 2, and Respondents Andrews Independent School District, et al., with respect to Reply Point No. 4.

#### STATEMENT OF THE NATURE OF THE CASE

Petitioners seek a judgment declaring the Texas school financing system, Tex. Educ. Code §16.001 et seq., implemented in conjunction with local school district boundaries that

contain unequal taxable property wealth for the financing of public education, in violation of the Texas Constitution.

The case was tried to the district court which held the school financing system unconstitutional. The court of appeals reversed and rendered. The court of appeals' opinion correctly states the nature and result of the suit.

Petitioners seek to reverse the judgment of the court of appeals and have this Honorable Court hold that the Texas school financing system, a system which was envisioned, authorized and created by the Texas Constitution, is unconstitutional under the same Texas Constitution from which the system arose. The court of appeals, however, was correct in its judgment and should be affirmed.

#### REPLY POINTS

##### REPLY POINT NO. 1

THE COURT OF APPEALS PROPERLY BALANCED THE RESPECTIVE ROLES OF THE COURT AND LEGISLATURE UNDER THE TEXAS CONSTITUTION.

##### REPLY POINT NO. 2

THE COURT OF APPEALS PROPERLY DETERMINED THAT THE TEXAS SCHOOL FINANCE SYSTEM DOES NOT VIOLATE THE EQUAL PROTECTION CLAUSE OF THE TEXAS CONSTITUTION.

##### REPLY POINT NO. 3

THE COURT OF APPEALS PROPERLY ANALYZED THE TEXAS CONSTITUTION IN LIGHT OF ITS HISTORICAL DEVELOPMENT.

##### REPLY POINT NO. 4

THE COURT OF APPEALS PROPERLY ASSESSED THE ROLE OF THE INDEPENDENT SCHOOL DISTRICTS WITHIN THE CONSTITUTIONAL FRAMEWORK UNDER THE TEXAS SCHOOL FINANCE SYSTEM.

## BRIEF OF THE ARGUMENT

### REPLY POINT NO. 1

THE COURT OF APPEALS PROPERLY BALANCED THE  
RESPECTIVE ROLES OF THE COURT AND  
LEGISLATURE UNDER THE TEXAS CONSTITUTION

See Brief of Respondents State of Texas, et al., with  
respect to Reply Point No. 1.

### REPLY POINT NO. 2

THE COURT OF APPEALS PROPERLY DETERMINED  
THAT THE TEXAS SCHOOL FINANCE SYSTEM DOES  
NOT VIOLATE THE EQUAL PROTECTION CLAUSE OF  
THE TEXAS CONSTITUTION

See Brief of Respondents Eanes Independent School  
District, et al., with respect to Reply Point No. 2.

### REPLY POINT NO. 3

THE COURT OF APPEALS PROPERLY ANALYZED THE  
TEXAS CONSTITUTION IN LIGHT OF ITS  
HISTORICAL DEVELOPMENT (Response to  
Petitioners' Points of Error Nos. 1, 10-14,  
and 16, and Petitioner-Intervenors' Points  
of Error Nos. 1, 5, and 6).

The genesis of Petitioners' challenge stems from the  
Texas Constitution of 1876, our present Constitution. Both the  
trial court and the court of appeals were called upon to  
interpret the constitutional provisions under which Petitioners  
seek relief. This Court is now called upon to do the same.  
Therefore, as correctly observed and applied by the court of  
appeals, it is critical that the court recognize the well  
established canons of construction that bind it in construing  
the Texas Constitution.

A. Canons of Constitutional Interpretation and Construction

In construing and giving effect to our Texas Constitution, several well recognized principles and canons of construction have developed. First and foremost among these principles is the fundamental canon that requires the courts to ascertain and give effect to the intent of the framers of the Constitution and the voters who adopted it. Gragg v. Cayuga Indep. School Dist., 539 S.W.2d 861 (Tex. 1976).

The fundamental rule for the government of courts in the interpretation or construction of a Constitution is to give effect to the intent of the people who adopted it.

Director of the Dept. of Agriculture and Env't v. Printing Indus. Ass'n of Texas, 600 S.W.2d 264, 267 (Tex. 1980) (quoting from Cox v. Robison, 105 Tex. 426, 150 S.W. 1149, 1151 (1912)).

In determining original constitutional intent, the provision in question should be construed in light of the time of the adoption of the provision. The constitutional meaning of the provision is fixed at the time it is adopted, and it is not different at any subsequent time. Cramer v. Sheppard, 140 Tex. 271, 167 S.W.2d 147 (1942).

In determining the intent of the framers, "Constitution provisions, like statutes, are properly to be interpreted in light of conditions existing at the time of their adoption, the general spirit of the times, and the prevailing sentiments of the people."

Printing Indus. Ass'n of Texas, 600 S.W.2d at 267 (quoting from Mumme v. Marrs, 120 Tex. 383, 40 S.W.2d 31, 35 (1931)).

That the language used in a particular constitutional provision must be presumed to have been carefully selected by the framers, and the words used interpreted as the people generally understood them at the time the provision was adopted, is another canon of constitutional construction which should guide the court. Cramer, supra; Leander Indep. School Dist. v. Cedar Park Water Supply Corp., 479 S.W.2d 908 (Tex. 1972).

Another established canon provides that in construing the Constitution, "all of its provisions affecting the same thing must be construed together and so construed if possible as to give effect to all of them." Duncan v. Gabler, 215 S.W.2d 155, 159 (Tex. 1948); Wilson v. Abilene Indep. School Dist., 190 S.W.2d 406 (Tex. 1945).

In those cases of fatally conflicting constitutional provisions, a rule of last resort states that a general provision must yield to a special provision. San Antonio & A. P. Ry. Co. v. State, 95 S.W.2d 680 (Tex. 1936); County of Harris v. Sheppard, 291 S.W.2d 721 (Tex. 1956). As stated in White v. Sterns, 651 S.W.2d 372 (Tex. App. -- Austin 1983, writ ref'd n.r.e.):

[A]n established corollary of the rule of statutory construction [is] that all statutes and parts thereof must stand, if possible, each occupying its proper place, consonant with the principle that legislative intent is more clearly reflected by a particular than by a general statute. The specific statute is thus regarded as an exception to, or a qualification of, any previously enacted general statute on the



same subject, which must yield in its scope and effect to the specific provisions of a later statute. Sam Bassett Lumber Co. v. City of Houston, 145 Tex. 492, 198 S.W.2d 879, 881 (Tex. 1947). The principle applies to the construction of constitutional provisions. County of Harris v. Shepperd, 156 Tex. 18, 291 S.W.2d 721, 726 (Tex. 1956); Lufkin v. City of Galveston, 63 Tex. 437, 439 (1885).

White, 651 S.W.2d at 374.

Courts, in construing a constitutional provision, should also avoid a construction which renders any provision meaningless or inoperative. Hanson v. Jordan, 198 S.W.2d 262 (Tex. 1946). Those who are called upon to construe the Constitution are not authorized to thwart the will of the framers by reading into the Constitution language not contained therein, or by construing the Constitution differently from its plain meaning. Cramer, supra. It is the people who have the sole power to change or modify the language adopted by them in the Constitution, and, until that is done, the Constitution remains the supreme law of the land and should be obeyed. The courts cannot question the wisdom of a constitutional provision and the courts must give full effect to the constitutional provision, without regard to the consequences. Cramer, supra.

As discussed below, the court of appeals, in reversing the trial court's judgment, correctly observed and applied the well established canons of constitutional interpretation and construction.

B. The Historical Development of Education as  
reflected by the Constitutions of the State of Texas.

1. An Overview.

The court of appeals was correct in its historical analysis of the Texas Constitution, and the application of that analysis to determine the intent of the voters who approved the Constitution. A key constitutional provision under review is, of course, art. VII, §1 of the Texas Constitution of 1876 ("art. VII, §1"), our current Constitution. Art. VII, §1 reads as follows:

A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

An historical analysis of the development of art. VII, §1, shown through prior Texas Constitutions, the debates of the 1875 Constitutional Convention, and authoritative commentary, reveals that the intent of the drafters of the Constitution of 1876 and the voters who subsequently adopted it, by providing an "efficient" system, was to restrict an elaborate and expensive system of public school financing. Furthermore, no intent to create a fundamental right to education can be discerned through the history of education in Texas. This historical analysis is bolstered by the testimony of Petitioners' own historical expert, Dr. Billy Don Walker. (SF 1917-2184). Additionally, the results of the 1973 Constitutional Revision Commission, the 1974 Constitutional

Convention Debates, and the 1975 proposed Texas Constitution, all support the proposition that the court of appeals was correct in its judgment that our current Constitution does not require the type of school financing system that the trial court decreed must be provided by the State of Texas.

2. Prior Constitutions and Their Systems of Education.

Texas has had six constitutions since the Republic of Texas was formed in 1836. All six constitutions, the 1836, 1845, 1861, 1866, 1869 and 1876 Constitutions, addressed education in Texas. (Walker at SF 1920).

In 1836, the people of Texas voted for the ratification of the Constitution of the Republic of Texas. Only one mention of education was found. In Section 5 of the General Provisions, a rather indefinite provision provided:

It shall be the duty of Congress, as soon as circumstances will permit, to provide by law a general system of education.

Tex. Const. §5 (1836)

The Constitution of 1845 provided in art. X, §1:

A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the Legislature of this State to make suitable provisions for the support and maintenance of public schools.

Tex. Const. art. X, §1 (1845).

Art. X, §2 provided:

The Legislature shall as early as practicable establish free schools throughout the State, and shall furnish means for their support, by taxation on property: And it shall be the duty of the